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THE

REPORTS OF COMMITTEES

OF THE

HOUSE OF REPRESENTATIVES

FOR THE

FIRST SESSION OF THE FIFTY-SECOND CONGRESS.

1891-'92.

IN TWELVE VOLUMES.

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Cattle on Cherokee lands, in violation of law	2885	10
Indian Territory and Oklahoma, carriage of passengers by railroads in	1489	5
Indian Territory, mines and mining in	162	1
Oklahoma, district courts of	944	4
funding the county debts of	981	4
reserving land in	1085	4
temporary government for	2854	10
New Mexico, admission of	736	3
capitol building	1575	5
Railroad laws for Indian Territory and Oklahoma	1583	5
Utah, exhibit of Columbian Exposition at	983	4
Utah Territory, local government for	963	3
COMMITTEE ON WAR CLAIMS—		
Abbot, Francis L	1317	5
Abby Ellen (brig)	70	1
Adams, Charles H	389	2
Adams, O. F	571	2
Aldrich, E. J	224	1
Alexander, Thomas L., legal representatives of	1486	5
Alexander, William J	289	1
Allard & Crozier	49	1
Allen, Lewis D	688	2
	7[illegible]	2
Allen, L D	648	2
Allen, Martha A., administratrix of Wyatt M	587	2
Allsworth, Edward	1[illegible]	4
Alsbury, Edward P	279	1
Alsup, John F	988	2
Anderson, A. E	688	2
Anderson, Charles P	1[illegible]	5

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Anderson, David B., deceased	1166	4
Anderson, James C., estate of	1280	4
Anderson, Mary H., widow of Hiram	1370	5
Anderson, William H	1673	7
Andes, Abraham	784	3
Antisell, Thomas	389	2
Archer, Henry W., legal representatives	79	1
Armelin, Charles, estate of	831	3
Armistead, Vincent	1271	4
Arrears of pay and bounty, settlement of claims	484	2
Ashe, John Baptiste, legal representatives of	1132	4
Athens, Ala., Cumberland Presbyterian Church of	310	1
	1180	4
Atkinson, Mary Ellen, administratrix of Richard	285	1
Atlanta, Ga., St. Philip's Church	660	2
Atlantic Works	1965	10
Austin, Sterling T., heirs of	125	1
Avery, John, estate of	1724	7
Ayers, Asa B	1270	4
Badeaux, Ulger V	1373	5
Baker, Sarah K. T	132	1
Balzer, Gustavus A	1787	7
Bank of Louisiana, creditors of	403	2
Banks, Charles	1046	4
Barnes, Benjamin S	1523	5
Barron, Mary	1017	4
Bass, Giles W	650	2
Bates, John A	972	4
Battelle & Evans	290	1
Baudry, Omer	1428	5
Baugh, William	1271	4
Baynard, Joseph S., and others	1692	7
Bazell, James B	312	1
Beard, I. B	327	2
Beckham, William R	1271	4
Bell, Josiah L	1431	5
Bell, Mary A	660	2
Berks County, Pennsylvania Agricultural Society	698	3
Bethel Springs, Tenn., trustees of Presbyterian Church of	311	1
Beuter, Francis A	1984	10
Bigler, James	1539	5
Bigley, Nicholas J	343	2
Billingslea, Walter R	649	2
Birchett, William G., estate of	1724	7
Bishop, Clarissa	1373	5
Bishop, James	136	1
Black, Joseph	832	3
Black, L. E	1280	4
Blackistone, Richard P	1362	5
Bliss, Francis A	239	1
Blinn, Laura	1481	5
Bloom, Henrietta Y	832	3
Blosser, Joseph	784	3
Blue, Solomon, estate of	305	1
Boardman, William, legal administrators of	798	3
Bolivar (Tenn.) Lodge	598	2
Booth, M. A	659	2
Booth, Martha A	659	2
Boston, Massachusetts Atlantic Works	711	3
	1965	10
Botts, Luigi	1888	7
Bounty and arrears of pay, settlement of claims for	484	2
Boutwell, D. W	433	2

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Bowling, John, heirs of	1545	5
Boyd, L. H	1336	5
Bradford, James M	936	3
Bradley, Horace L	320	1
Branch, Jesse L	1281	4
Brandt, Jesse L	1272	4
Brantly, W. S., executor of J. H.	390	2
Breaux, Pierre	831	3
Brewer, Elvy	657	2
Briant, Mrs. E. H	831	3
Bridger, James	1576	5
Bridges, Sarah E	661	2
Bridgewater, P. H	1408	5
Briscoe, Jackson	670	2
Bristol, Louis H	1374	5
Broadwell, Marcus L	153	1
Brooks, John G. W	32	1
Brooks, William H. H	1488	5
Brott, George F	124	1
Brown, A. M	1281	4
Brown, Florence A	1010	4
Brown, John T	971	4
Brown, M. G	1336	5
Brown, Thomas	650	2
Brown, Thomas J	1042	4
Bruen, John T	535	2
Buckey, Mary E	781	3
Buckholder, Martin, administrator Abraham	784	3
Buckmaster, William P., heirs of	1489	5
Buder, Edward A	607	2
Bugg, J. H., and others	427	1
Burditt, Augustus P	342	2
Burke, Edward, administrator	334	2
Burke, Hannah	1724	7
Burton, Henry H	1429	5
Burton, William	1045	4
Bushby, William	67	1
Butler, Phillip T., and others	785	3
Butt, William	936	3
Cahalan, Edward	576	2
Caine, Catherine	276	1
Caldwell, C. C	1467	5
Caldwell, John R	650	2
California war claims	254	1
Cameron, Emma S	550	2
Cameron, James and Emma S	888	3
Camp Tyler, Ill., owners and occupants of	1637	5
Campbell, George J	1072	4
Campbell, J. M., estate of	1272	4
Candy, Charles	1273	4
Capers, Francis F	1692	7
Caperton, George	650	2
Carl, David and Barbette	1428	5
Carmack, Joseph W	228	1
Carpenter, George	650	2
Carr, Rogers & Co	814	3
Carson, Henry Polite	611	2
Carter, Alfred B	328	2
Cartersville, Ga., First Baptist Church of	292	1
Cazes, Bertrand and Gaudin	47	1
Chapin, Gurden	1188	4

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Chapman, Henley W	1401	5
Cheek, Mrs. Nelson	785	3
Cheek, R. T	648	2
Chester, Lester P., and others	1288	4
Chouteau, Charles P	50	1
Cristy, John, & Co	350	2
Chum, A. B	651	2
Church and school building, claims for	11	1
Citizens' Bank, Louisiana	340	2
Citizens of Kansas, claims of	602	2
Claims for certain stores and supplies	1552	5
Clapp, George M	268	1
Clapp, Sarah A	274	1
Clara Bell, steamer	1219	4
Clark, James S., estate of	377	3
Clark, Stephen D	241	1
Cleveland, Elizabeth J	1281	4
Clift, William	723	3
Cobb, Blasddell & Co	350	2
Cobb, J. & O. P., & Co	350	2
Cobb, J. & O. P., & Co., surviving partners of	350	2
Cobb, Oliver P	350	2
Cobb, O. P., and others	351	2
Cole, Mrs. S. M	783	3
Coleman, Sarah and Florence	1282	4
Collards, W. H., and others	1330	5
Collins, Joseph	832	3
Columbia bridge, owners of	777	3
Connell, Michael	785	3
Cook, James A	1638	5
Cook, Jared R	649	2
Cook, Matilda	138	1
Cooner, Mary A	936	3
Cooper, Hudson, legal representatives of	776	3
Cordill, Joseph	829	3
Core, A. S	551	2
Cothes, H., heirs of	26	1
Cousens, George Lewis	216	1
Cowper, Leopold C. P	721	3
Crabill, Joseph D., estate of	784	3
Craig, William	1365	5
Cranston, Sarah M	1328	5
Crenshaw, A. L. H	112	1
Crews, Hamilton	345	2
Crider, R. H	37	1
Crider, S. F	131	1
Crompton, Richard	936	3
Cronk, Charles W	1568	5
Crosby, William	783	3
Cross, Joel	660	2
Crow, William	658	2
Crum, Elizabeth and B. L	597	2
Cunningham, Calvin B	391	2
Cunningham, Rachel	936	3
Cummings, Doyle & Co	39	1
Cummings, Phœbe	649	2
Cynthiana, Ky., destruction of property at	413	2
Dalton, Ga., trustees of the Catholic church at	291	1
Danolds, Charles A	655	2
Darly, F. O., estate of	831	3
Davis, A. W	598	2
Davis, Enoch	278	1

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Davis, Mark, heirs of	33	1
Davis, Marshall	648	2
Davis, Mark, legatees of	1636	5
Davis, Mrs. M. M	649	2
De Bevoise, S. H., estate of	1270	4
Debnam, Thomas R	661	2
Decatte, Owden	832	3
Deems, Lewis	1008	4
Deford, James, heirs of	1651	7
Deitrich, Emily	1279	4
Delahoussage, Sidonie	1370	5
Delille, Jean	1279	4
De Loach, Claiborne, heirs of	1270	4
	1272	4
Dennis, Mary A	832	3
Denny, George, sr	522	2
Dent, Warren R	332	2
Deslonds, Mrs. Frank	1370	5
Desmarc, Alphonse	1373	5
Deucatte, Odon	83	1
Dickson, Davidson, and others	392	2
	935	3
Dieters, John	1924	7
Dittlinger, Michael	429	2
Doherty, M. A	649	2
Dolman, Jacob	784	3
Donato, Auguste, heirs of	329	2
Donato, Belote A	832	3
Donnell, George O	115	1
Dorr, John H	137	1
Dougherty, Mary A	648	2
Douglas, W. W., administrator	832	3
Downey, Amelia	784	3
Downing, A. B., estate	649	2
Downs, Francis	1365	5
Doyle & Co	39	1
Doyle, Johanna	785	3
Doyle, William	776	3
Driscoll, John J	1184	4
Duffy, Eugenia and W. B	829	3
Dulin, A. F., estate of	1724	7
Duncan, Andrew J., deceased	16	1
Dunklee, William M., administrator	1251	4
Duvall, Tandy	784	3
Dyer, Rachel	262	1
Easterly, Isaac	1281	4
Edwards, Emily	1375	5
Edwards, Sarah Upton	1071	4
Edwards, W. W	1373	5
Eldridge, Hallam	1691	7
Ellen, Abby (brig), owners of	70	1
Elliott, John R	1428	5
Elsaser, John A	1336	5
Elzey, John	829	3
Engelhardt, Margaretha	1935	7
Engs, Samuel F	596	2
Ennis, William B	129	1
Eppes, John W	564	2
Evans, Samuel	1411	5
Fagot, Emile, heirs of	832	3
Falls, Jane	1985	10
Farnighy, Louis O	1499	5
Farley, John A	1280	4

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Farnsworth, D. D. T	1670	7
Fels, Samuel	134	1
Fergusson, George B	69	1
Field, John A	654	2
Fike, Martha A	936	3
Filhiol, Hypolite, and others	45	1
Fitzgerald, Michael G	1126	4
Flesschert, Martha E	1497	5
Fletcher, Nathan, heirs of	600	2
	1179	4
Flick, Catharine	784	3
Florence Masonic Lodge, Florence, Ala	601	2
Flowers, Elizabeth	661	2
Forgey, James	1386	5
Fourth of July claims	38	1
	1248	4
Fraliex, Martin, estate of	660	2
Franklin, William A., executor of J. B	1272	4
Frasuer, Eli	660	2
Frederick, Md., refund of money to	520	2
French, Henry S	82	1
Frizell, James S	1[illegible]5	1
Frobel, Elizabeth D. and Anna S	140	1
Fuller, J. B	648	2
Fuller, Robert W	1025	4
Fusilier, Corinne Perret	831	3
Gallagher, Charles	712	3
	713	3
Galland, Washington	116	1
Gallott, Julia	832	3
Gardner, Fannie E	1585	5
Garrett. W. F	1281	4
Garrison, Nemiah	111	1
Garrison, Silas M	936	3
Garrot, Pierre	1428	5
Gibson, William F	238	1
Giddings, Napoleon B	227	1
Gilbreath, Simeon	1283	4
Gilfoil, Patrick	829	3
Gillett, Theodore J	1386	5
Gittings, Samuel E	1423	5
Glassie, D. W. and Minna H	85	1
Gomez, Edwin	398	2
Goodloe, Mariam, and others	1481	5
Goodrich, A. E. and M. E	832	3
Govan, J. J	658	2
Graves, Mrs. C. H	78	1
Green, Edman	1538	5
Greenhill, Thomas C	650	2
Gregory, James A	156	1
Grimmett, Matthew H	1271	4
Grisson, Sarah	653	2
Grivot, Maurice, heirs of	376	2
	1427	5
Groom, William G	139	1
Groves, John H	1165	4
Guidry, Lesant, heirs of	831	3
Gullory, Martin	832	3
Gummo, John W	1813	7
Hackney, B. R	321	1
Hagerstown, Md	748	3
Haigh, A. V	1042	4

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Hall, Goff A	52	1
Hall, Warren	53 1361	1 5
Haller, Jonathan	784	3
Hamilton, G. Dwight	375	2
Hamm, John M	1277	4
Hammon, Jacob	784	3
Hancock, William	1364	5
Handlin, William W	431	2
Harding, Francis E., estate of	1370	5
Harkins, Charles	1383	5
Harris, Thomas D., heirs of	103	1
Harter, Thomas O	849	3
Hartman, Jesse P	315	1
Harvill, Mrs. L. J	651	2
Hathaway, John R	721	3
Havens, Ezra S	114	1
Hayes, Samuel, deceased	1272	4
Hayford, Axel	69	1
Haywood, Mrs. W. Dallas	661	2
Hazen, G. M., and others	934	3
Heard, James A	650	2
Heberer, John	608	2
Heberlein, August, estate of	1270	4
Hebert, Eliza E	54	1
Hebron, Adeline L., estate of	649	2
Heiskell, Ann E	143	1
Henderson, Robert	1183	4
Henkel, Philip	1199	4
Henry, William M	319	1
Henson, Hugh M	42	1
Hernandez, Vidal	745	3
Herr, A. H., estate of	463	2
Hickman, M. T	1279	4
Higgins, John M	605	1
Higgins, Richard, estate of	658	2
Higgins, Thomas L	275	1
Hildreth, William W., deceased	36	1
Hill, Alexander, estate of	832	3
Hill, Joseph A	659	2
Hobbs; Thomas M	1724	7
Hoffman, R. H	322	1
Holbrook, Julia	659	2
Holland, James L., estate of	1271	4
Holmes, Martha W	1412	5
Holsten Female College	1272	4
Holt, C. G., administrator of Wiley	661	2
Holt, John M	1281	4
Honeycutt, Stephen M	850	3
Hoover, Benjamin, estate of	784	3
Hoover, James C	1281	4
Hopper, W. A., administrator of David	649	2
Hopper, William, deceased	17	1
Hough, Fannie	1481	5
Howard, Samuel	13	5
Howland, Juanita	1367	4
Hubbard, Mary Jane	1272	1
Hughes, William	48	1
Hughes, William C	1200	4
Hughes, William H., administrator	43	1
Humboldt Female College	1281	4
Hume, Isaac, estate of	784	3

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Humphries, Julia A	149	1
Hundley, William T	782	3
Huntsville, Ala., Methodist Episcopal Church of	264	1
Hurdle, Eunice	597	2
Hurley, R. A	2088	10
Huson, W. H	401	2
Interest on money expended in raising troops	555	2
Isgrig, Thomas C	412	2
Izard, Florimond	832	3
Jackson, Miss., Roman Catholic Church	903	3
Jackson, Tenn., First Methodist Church of	15	1
Jean, Francis, sr	832	3
Jefferson County, Ky., claims of certain citizens of	374	2
Jocknick, Gustavus F	612	2
Johnnot, William, and others, legal representatives of	1133	4
Johnson, A. S., administrator of Thomas	318	1
Johnson, Hiram, and others	19	1
Johnson, Joseph B	1271	4
Johnson, Peter	1336	5
Johnson, Richard W	1369	5
Johnson, Rinaldo and Ann E	890	3
Joiner, Nathan	1889	7
Jones, Francis S., estate of	651	2
Jones, Isaac and Thomas C., estate of	648	2
Jones, John	1271	4
Jones, John H	597	2
Jones, John H., heirs of	103	1
Jones, John H., legal representatives of	722	3
Jones, Thomas	648	2
Jordan, R. D., guardian	1272	4
Kaylor, Daniel	1281	4
Keating, Martin	879	3
Keegan, Mary E	330	2
Kelly, Peter, estate of	334	2
Kendall, William, legal representatives of	361	2
Kennedy, Leonora J	832	3
Kennedy, Margaret	95 1671	1 7
Kergon, Thomas	335	2
Kerr, A. C	657	2
Kibler, Josiah and Jeremiah	784	3
Kilbourn, Benjamin J	1954	7
Kimmons, William M	597	2
King, Thomas J	936	3
Kirchner, George K	606	2
Knight, Isabella	936	3
Knight, Joseph	1428	5
Kolbe, Carl F	96	1
Koons, Anthony	34	1
Kouns, John, surviving partner of George L	1386	5
Kulage, Joseph, heirs of	1033	4
Labell, Charles	657	2
La Fayette Female Seminary, Colbert County, Ala	650	2
Lafferty, James	658	2
Lafleur, Ben M	832	3
Lafleur, Jean Pierre	832	3
Lafleur, Marcelin	832	3
La Grange Synodical College	29 650	1 2
Lake, Daniel, deceased	1047	4
Lam, James, estate of	783	3
Lamar, Robert G	1025	4

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Lanier, N. B	649	2
Large, William	395	2
La Rue, Maria D	783	3
Lastrapres, Victor	832	3
Lauderdale, Elizabeth	936	3
Lavery, William	1471	5
Lawhead, William, administrator of John	327	2
Lawrence, L. J	1280	4
Lazare, Jean Baptiste, estate of	329	2
Leduff, Alexis	832	3
Lee, A. S	281	1
Lee, John	1298	4
Lee, Lucy Ann and Allen G	287	1
Lefoldt, Julius	785	3
Leftwich, Gertrude A	28	1
Legg, A. C., deceased	1274	4
Leiper, John	1281	4
Lemelle, Charles	832	3
Lemelle, E	1279	4
Lemelle, Leon	832	3
Lemelle, Ludger, estate of	832	3
Lemelle, Rigobert, estate of	832	3
Lement, Pierre	832	3
Lewis, Abner D	658	2
Lillard, B., estate of	1278	4
Linn, Jane	152	1
Lipscomb, James C	1268	4
Litten, Julius B	1271	4
Little Rock and Memphis Railroad Company	885	3
Livers, Fanny S	1500	5
Livingston, Anne C	68	1
Logan, Mary T., widow of A. L	651	2
Long, Henry W	657	2
Long, William R	936	3
Loudon County, Va., loyal citizens of	1018	4
Lovelace, Emma C	241	1
Lovell, Louisa Q., and others	12	1
Lovell, Margaret Jane	1366	5
Lowe, William W	1127	4
Luchman, William	785	3
Lusk, Soloman	434	2
Lutz, Andrew	141	1
Lutz, Morris	784	3
Lynch, John A	1577	5
McBrayer, John H	1543	5
McCann, Michael	1191	4
McClintock, Joseph B	148	1
McConnell, C. J	419	2
McCool, Wells C	466	2
McDaniel, John A	657	2
McElhose, James B	1704	7
McGloughlin, Virginia	329	2
McGuffee, G. V., sr	332	2
McLaughlin, Ammon	1386	5
McLaughlin, Nelson	317	1
McLean, Louisa E	1272	4
McLellan, Leander C	1594	5
McLemore, Sarah L., administratrix of John C	333	3
McLeod, Daniel, legal administrators of	797	3
McMinnville, Tenn., Cumberland Female College	18	1
McMurtrey, John	1271	4
McNairy, Hugh	126	1
McNamara, Stephen	1275	4

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McNeill, John C	661	2
Macon City, Mo., Catholic Church	1592	5
Maddox, Laura E	886	3
Maddox, Margaret Virginia	970	4
Madison Female Institute	1050	4
Magill, Lydia A., administratrix	323	2
Mahon, Eliza Jane	652	2
Marklein, Charles	470	2
Marsh, Samuel	151	1
Marshall, Levin R., executors of	260	1
Marshall, Mo., The Christian Church	1065	4
Martin, Cyrus	554	2
Martin, John J., heir of Joseph	1279	4
Martinsburg, W. Va., St. Joseph's Catholic Church at	211	1
	467	2
German Evangelical Church	212	1
Methodist Episcopal Church	213	1
	465	2
Mastick, Henry, administrator of	1058	4
Mastin, Claude H	150	1
Matheny, Thomas M	396	2
Matlock, E. S., estate of	597	2
Matthews, William D	72	1
Meador, Zaddock	661	2
Meaher, Timothy, administrator of J. M	651	2
Meeha. Catherine Barry	346	2
Methodist Episcopal Church South, book agents of	20	1
Meuillon, Alphonso	832	3
Meuillon, Francis	329	2
Meuillon, Lucien	832	3
Michigan Cavalry, expenses of First	436	2
Middletown, Md	747	3
Miles, William T	1053	4
Miller, David	1146	4
Miller, James	662	2
Millet, Francis	359	2
Milley, S. B., administrator of Mary E	784	3
Minors who were discharged from the Army	896	3
Missouri, claims of militia organization of	695	3
Mitchell, James A	657	2
Mitchell, Sophia G	652	2
Mixon, William	1650	7
Mobile and Girard Railroad Company	341	2
Mobile Marine Dock Company	46	1
Moffitt, Alexander	31	1
Moiety claims of officers and crews of the Navy	242	1
Monahan, Mary E	327	2
Moneys collected by the United States, refund of	1363	5
Montgomery, Hugh	1279	4
Montgomery, Mary Ann	1691	7
Montgomery, Olivia F., and others	332	2
Montgomery, Pearson C	30	1
	1649	7
Montgomery, Robert H	461	2
Moody, B. F., & Co	279	1
Moonlight, Thomas	828	3
Moore, Stativa, and others	330	2
Moore, Stephen, administrator	17	1
Morehead City, N. C., Methodist church	1430	5
Morgan, Jesse B	936	3
Morgan, Robert E	77	1
Morgan, William S	936	3

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Morin, Catherine, heirs of	133	1
Morrow, William B	282	1
Moseley, William, jr	1695	7
Mount Zion Society	439	2
Mower, Joseph A., legal representatives of	1307	5
Mullin, Mary P	1335	5
Mullins, Martin	1189	4
Munday, G. W., administrator	832	3
Murdock, Emily	1371	5
Murphy, Dennis, sureties of	575	2
Murphy, James	649	2
Murphy, James, heirs of	1489	5
Murphy, J. J	330	2
Murray, Francis M	35	1
Musgrave, Emeline E	303	1
Nalley, Samuel M	302	1
Nash, Joseph C	85	1
Navy, moiety claims	242	1
Neal, W. H., estate of	1280	4
Neck, George, sr	832	3
Neet, John S., jr	225	1
Neidlinger, Charles V	1007	4
Nelson, John N	936	3
Nevada, claims of certain persons in	117	1
war claims of	254	1
Newell, Jane, estate of	1281	4
Newell, Jesse C	1333	5
New Haven, Conn., National New Haven Bank	667	2
Newman, James M	524	2
New Orleans, Union National Bank	86	1
Odd Fellows' Hall Association	405	2
New York, duties paid by the State on arms imported in 1863	1034	4
Nichols, Frank H., estate of	243	1
Nixon, Henry C	661	2
Noble, Lester	480	2
Noland, William H	1280	4
Northrup, Charles, estate of	1270	4
Nutt, Julia A	1800	7
Oakley, E. C., administrator	1280	4
O'Brien, William D	314	1
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Baynard, Joseph S., and others	1692	7
Bell, Josiah L	1431	5
Brown, Florence A	1010	4
Carl, David and Barbette	1428	5
Cunningham, Calvin B	391	2
Deems, Lewis	1008	4
Dickson, Davidson, and others	392	2
Dyer, Rachel	262	1
Eldredge, Hallam	1691	7
Elliott, John R	1428	5
Gardner, Fannie E	1585	5
Garrot, Pierre	1428	5
Johnson, Rinaldo and Ann E	890	3
Knight, Joseph	1428	5
McElhose, James B	1704	7
Mastick Henry, administrator of	1058	7
Montgomery, Mary Ann	1691	7
Morehead City, N. C	1430	5
Morrow, William B	282	1
Neidlinger, Charles V	1007	4
Oglesby, L. T	1433	5
Pope, Daniel T., and others	1025	4
Porche, Louis V	1428	5
Priddy, John D., heirs of	1958	10
Sowers, Frank S	1429	5
Sugg, L. D	393	2
Tillman, Francis	1057	4
Tolson, John J	1432	5
Wagner, George	1058	4
Wells, James	1692	7
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Smith, Thomas J	118	7
Tabor, H. A. W	1733	7
Whitall, Catherine E	1729	4
Zazone, Julius C	119	1
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Boyd, George W	1302	4
Brown, Ellen Miles	772	3
Christopher, Mary B	913	7
Ferris, Adelia S	1 98	1
Frymire, George L	064	10
Gibson, Guy W	2065	10
Hahn, Lydia E	2861	3
Harris, Martha A	1805	7
Heninger, Louis	1446	5
Hull, Mary E	863	3
La Tourette, Henry S	1029	4
Leibarger, Phebe, estate of	862	3
Pension and other claims, prosecution of	1531	5
Reeves, Louisa J	1623	5
Rigg, Druzilla J	2097	10
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Armelin, Charles, estate of	831	3
Athens, Ala., Cumberland Presbyterian Church	1180	4
Atlanta, Ga., St. Philip's Church	660	2
Austin, Sterling T., heirs of	125	1
Baker, Sarah K. T	132	1
Bass, Giles W	650	2
Bell, Mary A	660	2
Bigley, Nicholas J	343	2
Billingslea, Walter R	649	2
Bishop, James	136	1
Black, Joseph	832	3
Bloom, Henrietta Y	832	3
Boardman, William, administrator of	798	3
Booth, M. A	659	2
Bowling, John, heirs of	1545	5
Breaux, Pierre	831	3
Brewer, Elvy	657	2
Briant, Mrs. E. H	831	3
Bridges, Sarah E	661	2
Bridgewater, P. H	1408	5
Broadwell, Marcus L	153	1
Brooks, John G. W	32	1
Brown, Thomas	650	2
Bugg, J. H., and others	127	1
Burditt, Augustus P	342	2
Caldwell, John R	650	2
California	254	1
Carpenter, George	650	2
Carr, Rogers & Co	814	3
Cazes, Bertrand & Gaudin	47	1
Certain claims for stores and supplies	1510	5
Cheek, R. T	648	2
Chouteau, Charles P	50	1
Chum, A. B	651	2
Citizens' Bank, Louisiana	340	2
Claims of States	555	2
Clapp, George M	268	1
Collins, Joseph	832	3
Cook, James A	1638	5
Cook, Jared R	649	2
Cook, Matilda	138	1
Cordill, Joseph	829	3
Cothes, H., heirs of	26	1
Cousens, George Lewis	216	1
Crider, S. F	131	1
Cross, Joel	660	2
Crow, William	658	2
Crum, Elizabeth and B. L	597	2
Cummings, Phœbe	649	2
Cynthiana, Ky., destruction of property	413	2
Darly, F. O., estate of	831	3
Davis, A. W	598	2
Davis, Mark, heirs of	33	1
Davis, Mark, legatees of	1636	5
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Dougherty, Mary A	648	2
Douglass, W. W., adminstrator	832	3
Downing, A. B., estate of	649	2
Duffy, Eugenia and W. B	829	3
Elzey, John	829	3
Ennis, William B	129	1
Engs, Samuel F	596	2
Fagot, Emile, heirs of	832	3
Fels, Samuel	134	1
Filhiol, Hypolite, and others	45	1
Fletcher, Nathan, heirs of	1179	4
Flowers, Elizabeth	661	2
Fraliex, Martin	660	2
Frasuer, Eli	660	2
Frizell, James S	135	1
Frobel, Elizabeth D. and Anna S	140	1
Fuller, J. B	648	2
Fusilier, Corinne Perret	831	3
Gallott, Julia	832	3
Gilfoil, Patrick	829	3
Goodrich, A. E. and M. E	832	3
Govan, J. J	658	2
Greenhill, Thomas C	650	2
Gregory, James A	156	1
Guidry, Lesant, heirs of	831	3
Groom, William G	139	1
Gullory, Martin	832	3
Hall, Goff A	52	1
Hall, Warren	53	1
	1361	5
Hamilton, G. Dwight	375	2
Harvill, Mrs. L. J	651	2
Haywood, Mrs. W. Dallas	661	2
Heard, James A	650	2
Hebert, Eliza E	54	1
Heborn, Adaline L., estate of	649	2
Heiskell, Ann E	143	1
Henson, Hugh M	42	1
Higgin, Richard, estate of	658	2
Higgins, John M	605	2
Hildreth, William W., deceased	36	1
Hill, Alexander, estate of	832	3
Hill, Joseph A	659	2
Hoffman, R. H	322	1
Holbrook, Julia	659	2
Holt, C. G., administrator of Willey	661	2
Hopper, W. A., administrator of David	649	2
Hughes, William	48	1
Hughes, William H., administrator	43	1
Humphries, Julia A	149	1
Hurdle, Eunice	597	2
Interest on money expended in raising troops	555	2
Isgrig, Thomas C	412	2
Izard, Florimond	832	3
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Kimmons, William M	597	2
Koons, Anthony	34	1
Labell, Charles	657	2
La Fayette College	650	2
Lafferty, James	658	2
Lafleur, Ben M	832	3
Lafleur, Jean Pierre	832	3
Lafleur, Marcelin	832	3
La Grange Synodical College	29	1
La Grange College	650	2
Lanler, N. B	649	2
Lastrapres, Victor	832	3
Leduff, Alexis	832	3
Leftwich, Gertrude A	28	1
Lemelle, Charles, estate of	832	3
Lemelle, Leon	832	3
Lemelle, Ludger, estate of	832	3
Lemelle, Rigobert, estate of	832	3
Lement, Pierre	832	3
Lewis, Abner D	658	2
Linn, Jane	152	1
Little Rock and Memphis Railroad Company	885	3
Logan, Mary T., widow of A. L	651	2
Long, Henry W	657	2
Loyal citizens of Loudoun County, Va	1018	4
Lutz, Andrew	141	1
Lynch, John A	1577	5
McBrayer, John H	1543	5
McClintock, Joseph B	148	1
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McLellan, Leander C	1594	5
McLeod, Daniel, legal representatives of	797	3
MaNairy, Hugh	126	1
McNeill, John C	661	2
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Madison Female Institute	1050	4
Magill, Lydia A., administratrix	323	2
Marsh, Samuel	151	1
Marshall, Levin R., executors of	260	1
Mastin, Claude H	150	1
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Meador, Zaddock	661	2
Meaher, Timothy, administrator of J. M	651	2
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Nevada	254	1
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Pollard, A. W	128	1
Pitzer, T. T	1409	5
Rabot, Jean Baptiste	832	3
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Rhea, John L., executor of Samuel	358	2
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Rice, W. H	650	2
Ripley, E. W., estate of	832	3
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Robb, William N	1544	5
Robertson, Mary H. S	51	1
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Sammis, John S	145	1
Sanders, David B., estate of	27	1
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Scanlan, Mrs. W. H	830	3
Schaumburg, James W	344	2
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Scott, John D	659	2
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Sheely, Ann	829	3
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Sigur, John A	831	3
Simmons, J. W	659	2
Sims, James	418	2
Smith, A. J	651	2
Smith, Nancy C	597	2
Smith, Sarah E. B	1647	7
Smith, Vasti	661	2
Solair, Fannie	829	3
Sparks, D. M., estate of	651	2
St. Charles, Mo., St. Charles College	215	1
Stiff, Martha	1387	5
Stirman, Thomas V., deceased	157	1
Stovall, J. H	48	1
Stores and supplies, claims for	1552	5
Strickland, Jesse H	217	1
Summer, Margaret	649	2
Tate, Sally Sterrett	147	1
Morin, Catherine, heirs of	33	1

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Thorne, John D	146	1
Travis, W. C. M	130	1
Traweek, Mrs. E. L	657	2
Turner, Zeph	534	2
Unsell, David. estate of	43	1
Valleau, Sarah J	832	3
Vaughan, W. H	155	1
Verdin, Romain, estate of	831	3
Vignes, Polona	832	3
Walker, Julius	659	2
Wallace, Thomas	658	2
Ware, Henry	44	1
Warterfield, P. F., deceased	1131	4
Watkins, Nancy	650	2
Webb, William S	650	2
Whitaker, William	649	2
Wilhite, H	1891	7
Williamson, John E., administrator	1206	4
Willis, William B., deceased	649	2
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Kelly, Elizabeth	65	1
Mailloux, Belle Carlton	1085	4
Maloy, Bridget	66	1
O'Connor, Mary	1301	4
Shaw, Clara V	1388	5
Smith, Caroline	1032	4
Smith, Edward S., accrued pension of	421	2
Smith, Mary C	1556	5
Stevens, Harriet W	2055	10
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Bradford, Pa	1999	10
Bridgeport, Conn	2110	10

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Elizabeth, N. J	1744	7
Elmira, N. Y	1848	7
Fire in House of Representatives folding-room	1456	7
Fitchburg, Mass	1820	7
Hartford, Conn	1821	7
Hoboken, N. J	1794	3
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McKeesport, Pa	2112	14
Nashua, N. H	1122	7
New York, N. Y. (new custom-house)	1742	4
Paterson, N. J	1102	7
Pittsburg, Pa., sale of certain United States property	1743	5
Pottsville, Pa	1508	4
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Beshears, Alvis	158	1
Bevins, Samuel	208	1
Board of review	1074	4
Bourke, John G	1137	4
Bovell, John V	193	1
Boyd, Orsemus B	751	3
Brooks, S. J	1797	7
Buckner, Benjamin F. (or Taylor)	196	1
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Edwards, Richard M	109	1
Freedley, Henry W	1203	4
Gage, E. Darwin	2033	10
Hanson, Willis F	201	1
Hershe, Benjamin F	200	1
Horn, Fritz	209	1
Huse, Caleb	2034	10
Jackson, George	197	1
King, Orris O	204	1
McFarland, James A	195	1
Murray, Joseph	202	1
Schlapp, August	198	1
Scott, Austin A	199	1
Sheehy, Michael	207	1
Simpson, Isaac S	2125	10
Thompson, George W	192	1
Workman, Thomas C	210	1
Wright, Henry H	203	1
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WILSON, ROBERT P. C.		
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Absher, Anderson	1980	10
Anderson, Samuel S	1783	7
Askew, John J	2029	10
Athon, Levenia D	1930	7
Aubrey, Andrew J	1983	10
Bacon, Mary L	1762	7
Barnard, Anna E	2076	10
Belger, Fanny N	1786	7
Bell, Luman	2089	10
Bethards, Henry J	975	4
Birch, William A	223	1
Bolings, Samuel J	222	1
Bradford, Joseph J	1710	5
Bridges, Rebecca	1982	10
Briggs, Samuel G	1949	7
Brown, Elisha	1861	7
Burrough, William	743	3
Burton, Felix	1843	7
Byrd, Susan C	1932	7
Calhoun, Maggie E	1715	7
Campbell, Nancy	1782	7
Campbell, Robert S	1757	7
Carpenter, Ellen	2047	10
Chapman, Edward R	902	3
Churchill, Benjamin	976	4
Clark, George W	2031	10
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Copen, Addison M	998	4
Copenhaver, A. J	1934	7
Craig, Joseph	1992	10
Crawford, Elizabeth R	336	2
Dally, Abraham	1709	7
Davis, James A	339	2
Davis, Susanna	1838	7
Day, Cornelius	1997	10
Dean, John A	1863	7
Donnelly, Peter	805	3
Dunn, Philip G	1714	7
Dyall, James R., widow of	1978	10
Falkner, Nathan	1760	7
Farquharson, Mrs. S. A	1785	7
Fisher, Samuel O	55	1
Fields, John	2030	10
Frazier, Stark	679	2
Goodwin, Miles	1051	4
Graham, Amelia	1981	10
Granberry, Joseph J	1765	7
Hall, Jacob	1834	7
Harley, Elizabeth	1835	7
Hollis, Mary	1994	10
Jergins, Jesse J	1777	7
Jobe, Lavina	1711	7
Jones, Andrew J	338	2
Kennedy, Anthony M	807	3
Kingsley, Sterling	1775	7
Kirtley, James W	1716	7
Kramer, Andrew	681	2
Landes, Abraham	901	3
Lane, James	1832	7
Lane, Lewis	221	1
Lang, D. M	899	3
Larnard, Helen	2116	10
Luttrell, Samuel	1961	10
Lyon, Harry	1948	7
McElvey, Harmon H	489	2
Malloy, John	1996	10
Matlock, John	2032	10
Menefee, Mary A	1712	7
Mercer, John	900	3
Merritt, Henry	1778	7
Mexican war, increase of pension to certain soldiers	1959	10
Morgan, Benjamin	1977	10
Murphy, Susan S	1979	10
Nindemann, William F. C	981	2
Owen, L. D	1931	7
Pierce, Eliza B	1837	7
Prator, John D	1776	7
Ramey, Jonathan	488	2
Reed, David	806	3
Renfro, Nancy E	224	1
Riggs, Reuben	1713	7
Rowland, Thomas J	1964	10
Russell, William	1833	------
Sanderson, Louis G	1995	10
Sigler, Phebe	1758	7
Simmons, Abraham B	1759	7

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Simmons, Margaret C	1784	7
Slaughter, Ann Mercer	2084	10
Smith, Caroline A	808	3
Smith, James	1781	7
Staley, Noah	337	2
Tendoy, Chief of Bannock, Shoshone, and Sheepeater tribe of Indians	1830	7
Thomas, Edward	680	2
Trimble, Mary E	1862	7
Tucker, Thomas	1998	10
Turner, Margaret	56	1
Ware, Perry G	973	4
Watson, William M	1719	7
Webster, Amelia R	804	3
White, George W	487	2
White, Jeremiah	1761	7
Woodward, William S	485	2
Worthington, Betsey	486	2
Wright, Julia P	1761	7
Young, Anna Maria	447	2
Youngblood, Rebecca M	1962	10
WILLCOX, WASHINGTON F.		
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Eleventh Census	1171	4
Investigation of Census Office	1170	4
Permanent Census Bureau	1068	4
WINN, THOMAS E.		
From Committee on Private Land Claims.		
Segoura, Raphael	1812	7
From Committee on War Claims.		
Anderson, Mary H., widow of Hiram	1370	5
Ashe, John Baptiste, legal representatives of	1132	4
Athens, Ala., Cumberland Presbyterian Church of	310	1
Blackistone, Richard P	1362	5
Brooks, William H. H	1488	5
Burks, William H. H	1488	5
Cartersville (Ga.) First Baptist Church	292	1
Clark, James S., estate of	377	2
Dalton, Ga., trustees of Catholic church	291	1
Delahoussage, Sidonie	1370	5
Deslonds, Mrs. Frank	1370	5
Dunklee, William M., administrator	1251	4
Edwards, Emily	1375	5
Fletcher, Nathan, heirs of	600	2
Florence (Ala.) Masonic Lodge	601	2
Garrison, Nemiah	111	1
Grivot, Maurice, heirs of	376	2
Harding, Francis E., estate of	1370	5
Huntsville (Ala.) Methodist Episcopal Church	264	1
Johnnot, William, and others, legal representatives of	1133	4
Kendall, William, legal representatives of	361	2
Lipscomb, James C	1268	4
Mount Zion Society	439	2
Newman, James M	524	2
Nichols, Frank H., estate of	243	1
Perry, O. H., administrator, George W	1801	7
Poullain, Mildred P	417	2
Refund of moneys collected by the United States	1363	5
Rogers, Benjamin F	244	1
Spaugh, Robert	265	2
Stoddart, Alexander	281	1
Ward, Enoch P	458	2

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Collectors and surveyors of customs	1233	3
Compagnie Française du Télégraphe de Paris à New York	964	4
Investigation of railroad combinations	1630	5
Laredo, Tex., subport of entry	544	2
Life-saving appliances on steamers	568	2
Newark, N. J	272	1
Ogdensburg, N. Y	235	1
Port of delivery, Council Bluffs, Iowa	507	2
Seaton, Norman	1619 1952	5 7
Velasco, Tex	545	2
West Point, Va	443	2
WOLVERTON, SIMON P.		
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Boyd, Elizabeth T	946	4
Courts of United States, illegal practices in, etc	1966	10
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Hankins, Joel S	946	4
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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 323.

LYDIA A. MAGILL, ADMINISTRATRIX.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2401.]

The Committee on War Claims, to whom was referred the bill (H. R. 2401) for the relief of Lydia A. Magill, administratrix, report as follows:

This claim was favorably reported in the Fiftieth and Fifty-first Congresses.

Your committee adopt the report herewith annexed from the Committee on War Claims of the Fiftieth Congress, recommending the passage of the bill.

[House Report No. 2060, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2976) for the relief of Lydia A. Magill, administratrix, report as follows:

Your committee adopt the report, herewith annexed, from the Committee on War Claims of the Fiftieth Congress, recommending the passage of the bill.

[House Report No. 3212, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 8222) for the relief of Lydia A. Magill, administratrix, have carefully considered the same, and recommend that it do pass.

The official records of the War Department show that on the 3d day of May, 1862, W. C. Tarkington, captain and commissary of subsistence of the division of the U. S. Army commanded by Gen. James Shields, then at New Market, in the State of Virginia, entered into a written contract with John C. Magill, now deceased, whereby the said Magill agreed to furnish and deliver to said commissary, at such places and times as he might direct, beef cattle for the use of said division, for which he should be paid a fair and reasonable price, to be approved by the general commanding. Said contract was duly approved by Gen. Shields. In pursuance of said contract the said Magill delivered several lots of beef cattle, for which he was paid in accordance with the terms agreed upon.

On June 25, 1862, the said Magill delivered to said commissary, at Rappahannock, Va., under the provisions of said contract, 234 head of fine beef cattle, which weighed 166,198 pounds, net, which cattle the said Magill had purchased in Pennsylvania and driven to the place delivered, as ordered by said commissary, and all of which were used and consumed by the U. S. Army.

Upon the delivery and weighing of said cattle the said commissary made and delivered to said Magill a voucher for the sum of $17,450.79, being at the rate of 10½ cents per pound, net, and duly accounted for the same in his returns for the month of June, 1862.

Said voucher and price named were duly approved by Brig. Gen. Orris S. Terry, commanding the division, by his indorsement thereon directing its payment.

Said voucher was presented to the Commissary-General of Subsistence for payment, and by him referred to the Secretary of War. After several weeks, during which time the papers were referred back and forth between the Secretary of War and the *Commissary-General of Subsistence*, they finally, in the latter part of *August, 1862, directed the payment to Magill of* $13,744.57, being at the rate of 8.27

cents per pound. The necessities of Magill forced him to take said sum in order to meet his liabilities caused by the purchase of the cattle. This left a balance due him of $3,706.22, which has never been paid.

It further appears from official records and evidence presented that said Magill had previously delivered several lots of cattle under said contract for which he had been promptly paid.

In June, 1862, he went to Pennsylvania and purchased the lot of cattle for which said voucher was given. On June 20, 1862, Capt. Tarkington called at the office of the Commissary-General of Subsistence and informed Maj. A. E. Shiras, Commissary of Subsistence and Assistant Commissary-General, of the terms of said contract, and Maj. Shiras informed him that the contract was not made in accordance with regulations, and he verbally directed Capt. Tarkington to receive no more cattle under it unless they were then on the way to him.

The following day Capt. Tarkington telegraphed to Magill's agent at Baltimore inquiring where Magill and his cattle were, and said agent replied that Magill had left Baltimore with the cattle on the 20th and expected to cross the Chain Bridge, across the Potomac, on the 22d, and to reach Manassas on Wednesday following.

The cattle were on the way to Capt. Tarkington when Maj. Shiras gave him the verbal order of June 20, 1862, and Tarkington was by its terms authorized to receive them, which he did, and issued the voucher, with the approval of the commanding general, as before stated.

On July 3, 1862, said Magill and Samuel Wilson made affidavits that when they delivered the last lot of cattle for which payment was refused they had no knowledge that the Department had countermanded the authority of Capt. Tarkington in the matter; that they had in good faith delivered the cattle; that said cattle had been or were then being consumed by the Army; and they requested payment of the voucher.

On July 22, 1862, Brig. Gen. James Shields, in an official letter to the Department, stated that he had great difficulty when the contract was made in obtaining a supply of beef; that his command was suffering in consequence; that he was glad to enter into the contract with Magill, and he authorized Capt. Tarkington to make it; that Magill was directed to furnish the cattle; and that from the statement of the commissary and others acquainted with such matters the prices charged, $10.50 per hundred pounds, was then considered reasonable, as they were furnished at a time when stock was short and very inferior.

The principal objections of the Commissary-General to pay the voucher were that the commissary did not advertise for proposals, but made the contract with Magill without fixing a price; and, second, that he did not insert in the agreement that "it was subject to the approval of the Commissary-General;" that if Magill should be paid anything he should not receive more than 8.27 per pound—the prices then paid in Washington, D. C. And it was upon this statement that the amount was arbitrarily reduced.

Your committee is of the opinion that the acts of the War Department were unjust.

At the time the contract was made, and before and after, the Shenandoah Valley, as well as the country east of the Blue Ridge, was the scene of active hostilities. The battle of Kernstown occurred on March 23, 1862, and Shields had followed Jackson up the valley to New Market. His communication with the North was interrupted, and he was forced to live off the country or obtain supplies for his command in such manner as he deemed best. He was the proper judge of what was best to do in such an emergency, and in the exercise of his judgment he made, or directed to be made, the contract with Magill.

Shortly after the making of the contract Jackson made a raid down the valley, attacked the Union troops at Front Royal May 23, captured Winchester May 25, Harpers Ferry May 28, 1862, and then retreating up the valley had battles at Front Royal May 30, Strasburg June 1 and 2, Harrisonburg June 6, and Cross Keys June 8. Subsequently Shields's division was ordered to the Rappahannock, east of the Blue Ridge, where it was when the cattle were delivered.

Nor was it just to restrict the prices of the cattle to the rates then ruling in Washington City. The contractor had to drive them many miles through a hostile country, at much expense and danger, and necessarily had to sustain all losses that occurred while so doing.

This claim was presented to the Thirty-ninth Congress but not acted on. Magill died shortly after, and his widow, who is the administratrix of his estate, is the present claimant.

Upon the facts shown by the evidence and the official statements of Gen. Shields, Gen. O. S. Terry, and Capt. Tarkington, who were familiar with the entire matter at the dates of occurrence as to the necessities of the troops, the delivery of the cattle, and reasonableness of the price named in the voucher, the committee believe this claim is just, and report the bill back recommending its passage without amendment.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 324.

PREVENTING THE BUILDING OF HOUSES IN CERTAIN ALLEYS IN WASHINGTON, D. C.

FEBRUARY 13, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. HEARD, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 5119.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 5119) to prevent the building of houses along certain alleys in the city of Washington, and for other purposes, have had the same under consideration and beg leave to report as follows:

The bill is designed to prevent the erection of houses on alleys less than 40 feet in width, and which are not opened at both ends, and not then until provisions shall have been made for sewerage and lighting of such alleys and for the extension of the water mains therein. At present, in many parts of the city, narrow alleys, open at one end only, without light or water service, are lined on both sides by shanties filled, in many instances, with vicious classes of people of uncleanly habits, and over whom it is impossible, under present conditions, to exercise proper police or sanitary regulations; and the peace and health of the people of such neighborhood, and in the city generally, are imperiled by reason thereof.

Your committee believe that there should be no extension of the evil.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 325.

INDIAN APPROPRIATION BILL.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PEEL, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 5974.]

The Committee on Indian Affairs, to whom was referred estimates of the Secretary of the Treasury for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1893, and for other purposes, having had the same under consideration, beg leave to submit the following report:

The total carried in the bill herewith submitted is $7,236,787, as follows:

For current and contingent expenses of the Indian service	$205,400
For fulfilling treaty stipulations	3,151,981
For miscellaneous support	678,000
For general incidental expenses Indian service	128,000
For miscellaneous	1,015,086
For support of schools	2,183,330
For interest on trust funds	80,390

This bill, compared with a like bill for the fiscal years of 1891 and 1892, is as follows:

Total carried in the appropriation bill for the Indian service for 1891 was $7,480,954.47, which run as follows:

For current and contingent expenses of the Indian service	$217,913.73
For fulfilling treaty stipulations	2,506,279.92
For miscellaneous support	723,229.09
For interest on trust fund stock (nonpaying State stock)	101,470.00
For general miscellaneous expenses of the Indian service	2,074,148.45
For support of schools	1,857,903.28
Total	7,480,954.47
Present bill being	7,236,787.00
	244,167.47

Showing an excess over present bill of $244,167.47.

The appropriations made in Indian appropriation bill for the fiscal year of 1892, which was made at second session, Fifty-first Congress, carried on its face $17,651,842.41, but it is just and fair to say that $9,614,898.37 was to pay for lands purchased from various Indian tribes, the contracts for which were ratified in the said appropriation bill which was put on by unanimous consent. This amount is not chargeable properly to the Indian appropriation bill for the Indian service for that year.

This amount being deducted from the face of the bill ($17,651,842.41) would leave in the bill for Indian service or for the same purpose of the one now reported for next year ($8,036,944.04), which was as follows:

For current and contingent expenses of the Indian service	$241,935.64
For fulfilling treaty stipulations with the various tribes	3,048,954.35
For miscellaneous support	750,500.00
For interest on trust-fund stock (nonpaying State stock)	86,300.00
For general miscellaenous expenses of the Indian service	1,535,542.30
For support of schools	2,291,711.75
For principal of trust funds	82,000.00

So the difference between the last appropriation bill for the Indian service, which was passed at second session of the Fifty-first Congress, would be as follows:

Face of last bill passed at second session, Fifty-first Congress	$17,651,842.41
Face of present bill	7,236,787.00
Difference	10,415,055.41
Amount of last bill for the Indian service proper, passed at second session, Fifty-first Congress, less the amount paid for lands	8,036,944.04
Amount of present bill	7,236,787.00
Less than last year	800,157.04

This table shows that the present bill, appropriating for the fiscal year of 1893, is $10,415,055.41 less than the face of the same bill for 1892, passed at second session last Congress, and $800,157.04 less than the real amount appropriated for Indian service at second session of the last Congress.

The real amount carried in last bill for the different purposes of the Indian service, and the amount carried in present bill for like purposes and like service is as follows:

LAST BILL.

For current and contingent expenses	$241,935.64
For fulfilling treaty stipulations	3,048,954.35
For miscellaneous support	750,500.00
For interest on trust funds stock	86,300.00
For general and miscellaneous expenses Indian service	1,535,542.30
For support of schools	2,291,711.75
For trust funds principal	82,000.00
Total	8,036,944.04

PRESENT BILL.

For current and contingent expenses	205,400.00
For fulfilling treaty stipulations	3,151,981.05
For miscellaneous support	678,000.00
For general incidental and miscellaneous expenses	1,143,086.00
For support of schools	2,183,330.00
For interest on trust funds	80,390.00
Total	7,236,787.00

From a comparison of the two tables it will be seen that the present bill for current and contingent expenses is $36,535 less than for same service last year; it will be seen that the item of fulfilling treaty stipulations is $103,027.65 more than the same item for last year; the reason for this is, that under the contract with the Cœur d'Alenes, the Crows and Sissetons and Wahpetons made last year and ratified by the last Congress, large installments had to be paid this year.

The largest deduction in the present bill over the last bill is in the general incidental and miscellaneous expenses of the service, which amounts to $320,356.30. It will be seen that the sum for schools is not quite so large as last year. The deduction in the present bill does not curtail the support for Indian pupils; perhaps for that purpose there is a slight increase. We have cut down the amount for buildings. As a large amount was expended last year for buildings and repairs, your committee thought it prudent to fill up the schools already erected before building further.

Your committee, having given the subject very careful consideration, recommend that the accompanying bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 326.

DISTRICT OF COLUMBIA SUBURBAN RAILWAY COMPANY.

FEBRUARY 15, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. RICHARDSON, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 429.]

The Committee on the District of Columbia have considered House bill 429, to incorporate the District of Columbia Suburban Railway Company, and report the same to the House with the recommendation that it do pass with the amendments submitted by the committee.

The bill has been submitted to the Commissioners of the District of Columbia and by them considered. They also recommend its passage with certain amendments, which are agreed to by the committee, and are all included in the amendments herewith submitted.

This bill substantially in its present form passed the Senate in the Fiftieth Congress, after a favorable recommendation by the Senate Committee on the District of Columbia and the Commissioners of the District, and it was favorably reported by the House committee the same Congress, but on account of the crowded condition of the Calendar of the House it was not reached. It was again favorably reported to the House during the Fifty-first Congress, but its consideration was not reached.

There is an urgent necessity and demand for this road. It is intended to open up a portion of the city in the northeast and a suburban territory hitherto unexplored or occupied by a street railroad.

The citizens residing along the line of its contemplated route are earnestly asking the construction of the road. They have petitioned for the passage of this bill in large numbers. The main line of the road will begin at the intersection of Pennsylvania avenue and Seventh street east, and will run thence along Seventh street N to Maryland avenue; thence along this avenue northeast to Fifteenth street, where the Bladensburg road now enters the city, and thence out the Bladensburg road to that village. There will also be a branch of said railroad beginning at the intersection of Maryland avenue and Twelfth street NE., thence along Twelfth street northward, passing in the vicinity of the National Fair Grounds and the village of Brookland to a point north of the Soldiers' Home.

It is proper to say that the corporators have also a charter from the State of Maryland authorizing the construction of the road on from the line of the District of Columbia to the Great Falls of the Potomac. The bill as reported by this committee carefully guards and protects all the rights and *interests of the city* and of the District of Columbia.

The committee earnestly recommend its passage. The committee submit as a part of this report the report submitted by Mr. Heard from the Committee on the District of Columbia in the Fifty-first Congress on this bill or one similar in its provisions.

[House Report No. 2680, Fifty-first Congress, first session.]

The Committee on the District of Columbia, to whom was referred House bill 825 entitled "A bill to incorporate the District of Columbia Suburban Railway Company," beg leave to report that they have considered said bill and the report of the Commissioners of the District of Columbia with reference thereto.

The committee are of the opinion that such a road is not only desirable, but will be of great service to the people of the city and country, and, with amendments suggested by the committee and by the District Commissioners in their reports, recommend its passage or that the substitute do pass.

The committee thought it advisable to make several important changes in the original bill, nearly all of which were recommended by the said District Commissioners, and therefore they present herewith a substitute for said original bill, rather than propose amendments for all the changes suggested. * * *

Your committee also report that the people along the line of the proposed road have sent petitions numerously signed and urgently requesting the granting of this charter, believing as they do that it will be a great convenience to all who reside along the streets and roads over which the roads will pass and to the people in the country not now accessible to street railroads, and will open up a section of country which will become very valuable to the District, and afford a means for the poor and those of moderate resources to retire from the heat of the city with their families and obtain recreation in a section not now accessible. It will afford ready access to the suburbs surrounding the city and afford a means of intercourse between the various suburbs.

The bill is well guarded so as to insure the completion of the work and protect the citizens from all imposition and the District in its extended improvements.

The committee recommend the passage of the substitute.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 327.

I. B. BEARD AND OTHERS.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 81.]

The Committee on War Claims, to whom was referred bills (H. R. 777, 783, 1951, 1961, 1970) for relief of I. B. Beard, estate of T. M. Tucker, Sarah A. Powel, William Lawhead, administrator of John Lawhead, and Mary E. Monahan, have had the same under consideration and beg leave to report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and report herewith a resolution to that effect and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 328.

ALFRED B. CARTER.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 82.]

The Committee on War Claims, to whom was referred the bill (H. R. 1843) for the relief of Alfred B. Carter, have had the same under consideration and beg leave to report as follows:

Your committee are of opinion that this claim should be referred to the Court of Claims for findings of fact, and report herewith a resolution and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 329.

HEIRS OF AUGUSTE DONATO AND OTHERS.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 83.]

The Committee on War Claims, to whom was referred bills (H. R. 1955, 1956, 1959, 1969, and 1972) for relief of the heirs of Auguste Donato, estate of Jean Baptiste Lazare, Louis Vauquat, Francis Meullion and Virginia McGloughlin, have had the same under consideration and beg leave to report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and report herewith a resolution to that effect and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 330.

ESTATE OF STATIVA MOORE AND OTHERS.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 84.]

The Committee on War Claims, to whom was referred bills (H. R. 1840, 1842, 1848, and 1854) for relief of estate of Stativa Moore, Leger Restle, Mary E. Keegan, and J. J. Murphy, have had the same under consideration, and beg leave to report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and report herewith a resolution to that effect and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 331.

OVERTON HOTEL COMPANY.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 85.]

The Committee on War Claims, to whom was referred the bill (H. R. 1856) for the relief of the Overton Hotel Company, of Memphis, Tenn., have had the same under consideration and beg leave to report as follows:

Your committee are of the opinion that this claim should be referred to the Court of Claims for findings of fact, and report herewith a resolution and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 332.

OLIVIA F. MONTGOMERY AND OTHERS.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 86.]

The Committee on War Claims, to whom was referred the bills (H. R. 1450, 1451, 1455, and 1946) for relief of Olivia F. Montgomery, G. V. McGuffee, sr., Warren R. Dent, and estate of Benjamin Roach, have had the same under consideration and beg leave to report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and report herewith a resolution to that effect and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 333.

SARAH L. McLEMORE, ADMINISTRATRIX OF JOHN C. McLEMORE, DECEASED.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 87.]

The Committee on War Claims, to whom was referred the bill (H. R. 4509) for the relief of Sarah L. McLemore, administratrix of John C. McLemore, deceased, have had the same under consideration and beg leave to report as follows:

Your committee are of the opinion that this claim should be referred to the Court of Claims for findings of fact, and report herewith a resolution and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 334.

EDWARD BURKE, ADMINISTRATOR OF PETER KELLY, DECEASED.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2953.]

The Committee on War Claims, to whom was referred the bill (H. R. 2953) for the relief of Edward Burke, adminstrator of Peter Kelly, deceased, respectfully report:

This claim embraced in the present bill was duly referred to the Court of Claims to find the facts and report to Congress. It appears that a hearing was had in that court of all the matters relating to the claimant's demand; that the United States was upon said hearing represented by counsel, and that after the hearing and due deliberation said court made a report, which was reported to the House February 12, 1892 (House Mis. Doc. No. 78), as follows, to wit:

[Court of Claims. Congressional case, No. 888. R. J. Burke, guardian of the minor children of Peter Kelly, deceased, *vs.* The United States.]

At a Court of Claims held in the city of Washington on the 6th day of April, A. D. 1891, the court filed the following statement of case and findings of fact, to wit:

STATEMENT OF CASE.

The claim in the above-entitled case, for property alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, was transmitted to the court by the Committee on War Claims of the House of Representatives on the 17th day of May, 1886.

Gilbert Moyers, esq., appeared for claimant, and the Attorney-General, by W. J. Rannells, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry the court found that the person alleged to have furnished the supplies or stores, or from whom they were alleged to have been taken, was loyal to the Government of the United States throughout said war.

The case was brought to a hearing on its merits on the 30th day of March, 1891. The claimant in his petition makes the following allegations:

That the said Peter Kelly, deceased, was a citizen of the United States, residing in Madison County, State of Tennessee, where he resided during the late war of the rebellion; that at different times during said period the United States forces, by proper authority, took from decedent commissary supplies of the value of $912, and appropriated the same to the use of the United States Army, as follows:

Taken by order of Maj. Smith and by a party of an engineer's corps, under Col. Bizzell, in the fall of 1862:

700 pounds of sugar, at 20 cents	$140
240 pounds of coffee, at 30 cents	72
4 boxes of tobacco, 50 pounds each, at $1 per pound	200
80 gallons whisky, at $5 per gallon	400
10 gallons peach brandy, at $5 per gallon	50
10 gallons apple brandy, at $5 per gallon	50
	912

The court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, make the following

FINDINGS OF FACT.

Peter Kelly resided during the late war in Jackson, Madison County, Tenn. He kept a saloon and boarding house, and sold groceries. He had a license to sell beer and groceries, which was countersigned by the provost marshal in 1862. The successor of this provost marshal, in the autumn of 1862, seized said Kelly's goods and had them conveyed to the court-house, where they were in care of the provost-marshal's command. Later the goods were released from seizure by order, but it was found that, of the property mentioned below, nothing remained; the goods had been used by the troops, but whether all had been consumed by the troops without other aid does not appear. In this way said Kelly lost sugar, coffee, tobacco, whisky, peach brandy, and apple brandy, reasonably worth the sum of $416.

R. J. Burke was, December 18, 1883, appointed guardian of Peter Kelly, Eliza Kelly, and Sarah Kelly, minors, by the county court of Madison County, Tenn. It does not appear whether the estate of Peter Kelly, deceased, has been settled.

BY THE COURT.

Filed April 6, 1891.
A true copy.
Test, this 11th day of February, A. D. 1892.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Your committee recommend that said findings of the Court of Claims be carried out by the passage of the bill, which is in harmony with the the conclusions reached by the court.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 335.

THOMAS KERGON.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 88.]

The Committee on War Claims, to whom was referred the bill (H. R. 688) for the relief of Thomas Kergon, have had the same under consideration and beg leave to report as follows:

Your committee are of the opinion that this claim should be referred to the Court of Claims for findings of fact, and report herewith a resolution and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 336.

ELIZABETH R. CRAWFORD.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3838.]

The Committee on Pensions, to whom was referred the bill (H. R. 3838) granting a pension to Elizabeth Crawford, have considered the same and report:

The records show that the claimant's late husband, C. A. Crawford, was enrolled June 19, 1836, as a private in Capt. Patrick's company, Alabama Mounted Volunteers, subsequently Capt. Patrick's company, First Battalion, McMillion's Fourth Regiment, Alabama Volunteers, to serve three months, and mustered out of service, with the company, July 21, 1836.

Jeremiah Hackett and Thomas H. McMurtrey, citizens of Sebastian County, Ark., testify to the identity of the claimant as the widow of the above-named soldier; that she is 78 years old, of very feeble health, and has no support, only charity.

Your committee, believing the bill to be a meritorious one, recommend its passage with an amendment fixing the rate of pension at $12 per month.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 337.

NOAH STALEY.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2496.]

The Committee on Pensions, to whom was referred the bill (H. R. 2496) granting a pension to Noah Staley, have considered the same and beg leave to report as follows:

Relative to the service of the claimant the War Department reports as follows:

The muster-out roll of Capt. McCoun's company, Spy Battalion, Second Brigade Illinois Mounted Volunteers, dated August 15, 1832 (the only record of the company on file in this Department), reports Noah Staley, a sergeant, enrolled May 12, 1832, to serve ninety days, with remark: "Horse and equipments left, having broke down on a forced march to the battle ground on the Mississippi River; furloughed at Prairie du Chien."

In his petition for relief the claimant states under oath that he was discharged from the above-named organization September 12, 1832; that he is now 81 years old, in very bad health, so crippled up by injuries and rheumatism that he can not walk without a crutch and stick, and in needy circumstances, owning no real estate and but little personal property.

E. L. Stewart and Thomas K. Wilson, citizens of Carmi, Ill., testify to the claimant's identity, and that he is a truthful, honorable man, and one whose statements are worthy of belief.

Mr. Staley resides at Carmi, Ill.

The bill is returned with a favorable recommendation.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 338.

ANDREW J. JONES.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3123.]

The Committee on Pensions, to whom was referred the bill (H. R. 3123) granting a pension to Andrew J. Jones, have considered the same and report.

The muster roll of Capt. James Barnes's spy company, Oregon Volunteers, organized for service in the Rogue River Indian war of 1855 and 1856, reports service of Andrew Jones as private from February 23 until July 3, 1856.

Accompanying the bill is a sworn statement by the claimant to the effect that he is 60 years old and has been a resident of Douglas County, Oregon, ever since 1852; that in the latter part of 1855 the Rogue River and Cow Creek Indians broke out in open hostilities against the whites, and he enlisted in the above-named organization to aid in its suppression; that during the all-day battle of Cow Creek on March 27, 1856, he received a wound in the back of the neck from an Indian bullet, and that from the effects of said wound he remained in hospital under treatment until the 8th of July following, and that he had suffered more or less in consequence ever since; that said wound interferes with the pursuit of his trade (that of carpenter); he dare not trust himself any great distance from the ground, as his head grows dizzy, and he suffers from throbbing pains in the back part of his neck and head. He further states that he has been subject to rheumatic and neuralgic pains ever since said war, which he believes to have been contracted by exposure during said winter campaign, assisted and aggravated by said wound.

John Kelsey, a citizen of Burton County, Oregon, and late colonel of the regiment in which the claimant served, corroborates under oath the applicant's allegations relative to receipt of said wound; this witness states he saw the claimant lying on the ground where he had fallen when wounded, and he (witness) believed the wound to be a dangerous one. He further testifies that the claimant was a good and brave soldier and has always been regarded as a worthy, honorable, and deserving citizen.

Dr. N. P. Bunnell, of Roseburg, Oregon, gives a detailed description of the wound in question and states that the same causes constant and severe pains when the claimant is exposed to the heat of the sun.

Isaac Boyle, of Douglas County, Oregon, testifies to being a member of the same company with the claimant, and has personal knowledge that the claimant was wounded as alleged.

It is further reliably shown that the claimant has never recovered from said wound, and that he is in reduced circumstances and an extremely poor man. These facts are certified to by the gentleman who introduced the bill.

After a full and careful consideration of the case, your committee recommend that the bill do pass.

Amend by striking out all after the word "pension" in line 11, and substituting in lieu thereof the words "for said wounds, subject to the provisions and limitations of the general pension laws;" also amend by spelling the name of the captain under whom the claimant served, "Barnes" instead of "Brown."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 339.

JAMES A. DAVIS.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4488.]

The Committee on Pensions, to whom was referred the bill (H. R. 4488) granting a pension to James A. Davis, have considered the same and respectfully report as follows:

The records show that the claimant served in the Black Hawk war as a private in Capt. Jesse B. Brown's Company, United States Mounted Rangers. He enlisted July 31, 1832, for one year and served until December 21, 1832, when discharged on surgeon's certificate of disability.

The service of the claimant is also shown by the sworn statement of William Bandy, who served with him.

Hon. John C. Black, Ex-Commissioner of Pensions, certifies under date of January 27, 1892, as follows:

> I have been acquainted with James A. Davis, who, I understand, is an applicant for pension from Congress—for 40 years. I know him to be a man of great age, of sobriety, of the best habits, and yet entirely dependent upon those not legally bound to his support, and at the same time incapacitated by reason of his age from earning his living manually or otherwise. I would be gratified to know that the pension was issued to him because of his services in the Black Hawk war, which, I understand, have been established.

The claimant, who now resides in California, makes affidavit to being without property, and in a dependent condition; his age is stated at 81 years.

L. M. Brown, William R. Harker, and James Ashby, also testify to the claimant's great age, dependence, and disability.

Your committee believe the bill to be a meritorious one, and the same is hereby returned with a favorable recommendation.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 340.

CITIZENS' BANK OF LOUISIANA, ETC.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3228.]

The Committee on War Claims, to whom was referred the bill (H. R. 3228) to authorize the Court of Claims to hear and determine the claim of the Citizens' Bank of Louisiana, submit the following report:

The facts of this claim are fully stated in a report made by this committee to the House in the Fifty-first Congress, which report is appended as a part of this report.

Your committee adopt the said report as their own and recommend the passage of the bill.

[House Report No. 106, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3209) to authorize the Court of Claims to hear and determine the claim of the Citizens' Bank of Louisiana, etc., report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own and recommend that the bill do pass with the following amendments: In line 7 strike out the words "alleged unlawful," and in lines 5 and 6 strike out the words "with interest thereon," and strike out in line 11 all after "Supreme Court" down to and including the word "act," in line 14.

[House Report No. 4120, Fiftieth Congress, second session.]

Your committee, after careful consideration, submit the following as the result of their conclusions:

The Citizens' Bank of Louisiana claims from the United States the sum of $215,820.89, exacted from it June 19, 1862, by the order of Maj. Gen. B. F. Butler, commanding the United States forces at New Orleans, which amount was turned over to the quartermaster and covered into the Treasury of the United States.

This case was before the Senate Committee on Claims in the Forty-eighth and Forty-ninth Congresses and reported favorably by said committees to the Senate, but minority reports, signed by two members in the Forty-eighth and one member in the Forty-ninth Congress were also presented.

The record of the claim shows indisputably the following facts:

(1) The Citizens' Bank is a corporation under the laws of Louisiana, doing a general banking business since 1836, the stock being held in nearly every State of the Union and in Europe.

(2) In 1861 it, together with all other banks in the Southern States, suspended specie payment, and its business was then transacted in Confederate treasury notes, which had wholly superseded coin in all business transactions.

(3) September 16, 1861, the Citizens' Bank made a contract with all depositors, which contract was printed in all books of deposit, which stipulated that thereafter, to wit, after the 16th of September, 1861, all deposits made would be payable in the treasury notes of the Confederate States.

(4) Thereafter, and under the terms of said contract, deposits were made by certain officers and agents of the Confederate government as follows:

Confederate States treasurer's account	$219,090.94
Special account	12,465.00
J. M. Huger, Confederate receiver	106.812.00
G. W. Ward, Confederate receiver	72,082.00
J. C. Manning, Confederate receiver	1,120.00
Maj. M. L. Smith	16,026.52
Maj. S. Maclin	6,814.57
Maj. Reichard	497.30
Total	434,908.33

The said sums were deposited in, and by said contract payable in, Confederate States treasury notes only.

(5) The United States fleet under Admiral Farragut captured and occupied New Orleans about the 28th of April, 1862, and on May 1 Gen. Butler, commanding, issued a proclamation to the people of the conquered city, in which he declared that "all the rights of property of whatever kind will be held inviolate, subject only to the laws of the United States."

(6) A month afterwards, in June, 1862, Gen. Butler ordered ("General Order No. 40") all the New Orleans banks to report and turn over to the United States military authorities all property held by them, either "general or special deposits, bills of exchange, or other evidences of debt belonging to any officer or person serving in any way the Confederate States, the State of Louisiana, or any Confederate State."

(7) June 11, 1862, the Citizens' Bank reported as follows:

CITIZENS' BANK OF LOUISIANA,
New Orleans, June 11, 1862.

GENERAL: In obedience to your General Order No. 40, I beg to inform you that on the 1st of May last there was to the credit of the treasurer of the Confederate States in this bank the sum of $219,090.94; and also on special account the further sum of $12,465; and this bank holding a larger amount in the notes of the Confederate treasury, an equivalent amount in said treasury notes has been set aside, and is now held by the bank, to offset the above stated amount, and which notes I will return as the property of the Confederate States under your order.

Also, one small tin box, marked "Confederate States district court."

The following named parties have also to their credit on deposit these sums, viz:

J. M. Huger, Confederate States receiver	$106,812.60
G. W. Ward, Confederate States receiver	72,084.90
J. C. Manning, Confederate States receiver	1,120.00
Maj. M. L. Smith, Confederate States receiver	16,026.52
Maj. Macklin, Confederate States receiver	6,814.57
Maj. Richard, Confederate States receiver	476.30

As the deposits by the receivers were made in this bank by virtue of an order of the Confederate court, in accordance with the act of Congress, they were to that extent compulsory on the receivers as well as on the banks. To have refused to comply with the mandate of the court might have brought both parties into conflict with the constituted authorities for the time being.

All the above-mentioned deposits were made in the currency of the Confederate government by its appointed officers.

Had the bank resumed specie payment or become bankrupt in the meantime, those depositors would have had no claim to the coin or to a pro rata distribution of the other assets of the bank. They could only have claimed the currency deposited by them, and hence it may be classed as special deposits of Confederate funds, payable in same, in accordance with the contracts and understanding at the time. Under the circumstances the bank appeals to Gen. Butler's sense of equity and justice to allow these deposits to be paid to whom it may concern in the same currency in which they were received.

Sometime during the month of November last an order of sequestration was issued to the marshals of the Confederate States to take charge of the assets of the Bank of Kentucky, then held by this bank in the usual course of business.

The assets have never been removed from the bank, yet still are nominally beyond its control.

I therefore respectfully request from the commanding general an order to refund

to the Kentucky bank, the owners of said assets, that the accounts may be made out accordingly and a due return forwarded to them.

The banks were informed on the seizure of their assets at the time, and one of them, the Bank of Kentucky, had a resident agent here at that time.

With great respect, your obedient servant,

JAMES D. DENEGRE,
President.

Maj. Gen. B. F. BUTLER,
Commanding at New Orleans.

(8) To this showing General Butler replied in a characteristic letter, which closes as follows:

"Therefore, I must direct all the items but the first to be paid to my order for the United States in gold, silver, or United States Treasury notes, at once. The first item of $219,090.94 I will refer to the home government for adjudication; and, in the meantime, the bank must hold as a special deposit the amount of Confederate notes above mentioned, and a like amount of bullion to await the decision.

"BENJAMIN F. BUTLER,
"*Major-General, Commanding.*"

(9) General Butler then sold, through Jacob Barker, the first item, to wit, $219,090.94 in Confederate treasury notes, and realized about 33⅓ cents on the dollar, amounting to $73,030.31 in United States currency, which was covered into the Treasury. This proceeding was perfectly right and proper under the laws of war, and had General Butler proceeded in the same way with the deposits of the Confederate officers and receivers, the Citizens' Bank would have had no claim against the Government. But he did not.

(10) On the contrary, he obliged the bank to pay over the whole of the balance of said deposits standing in the name of the Confederate receivers and agents, and which were undoubtedly the public moneys of the Confederate Government, and which amounted to $215,820.89 in gold, silver, or United States currency. This was done by the bank on the 19th of June, 1862, in a check on the bank of America of New York, and was covered into the Treasury of the United States.

Such are the facts.

As applicable thereto the following is submitted as embodying the law that must govern the case:

First. The order of General Butler obliging the Citizens' Bank to pay $215.820.89 in good and lawful money was wholly illegal and without any authority in law, civil or military, because—

(1) Said order was a violation of his own proclamation of May 1, 1862, in which he declared that "all the rights of property, of whatever kind, will be held inviolate, subject only to the laws of the United States."

In the case of the *Venice* (2 Wall., 258), the Chief Justice said:

"Hence the proclamation of the commanding general at New Orleans must not be interpreted by such rules as govern the case of the ships taken at Genoa. Vessels and their cargoes belonging to citizens of New Orleans * * * after the publication of that proclamation must be regarded as protected by its terms."

In the case of The Planters' Bank *v.* The Union Bank (16 Wall., 483), the court held that—

"A military commander commanding the department in which New Orleans was situated had not the right on the 17th of August, 1863, after the occupation of that city by General Butler, and after his proclamation of May 1, 1862, announcing that 'all the rights of property of whatever kind will be held inviolate, subject only to the laws of the United States,' to seize private property as booty of war, or, in face of the acts of Congress of 6th of August, 1861, and July 17, 1862, make any order confiscating it."

(2) Said order was a violation of a contract between the Citizens' Bank and its depositors. The deposits of the Confederate receivers were made in Confederate money, and they had agreed to take Confederate money in payment. This contract General Butler had no power to alter or derogate from. The Supreme Court (16 Wall., 483) has expressly declared that such a contract was legal and could be enforced. As such it formed an important right of property which General Butler was without authority to violate or change.

(3) General Butler could only take whatever rights the Confederate government or its agents and officers had to any deposits or property in the Citizens' Bank. He did take the first item of deposit standing in the name of the Confederate States treasurer, viz, $219,090.94 in Confederate treasury notes and caused it to be sold and realized $73,030.31 in United States currency. The other deposits standing to the credit of the Confederate agents and receivers were equally the public moneys of the Confederate government, and as such were lawful booty of war. But he did

not take the last-mentioned amount. On the contrary, he left the $215,820.89 in Confederate treasury notes in the vaults of the bank and compelled the bank to pay over $215,820.89 in "gold, silver, or United States Treasury notes." In other words, he failed to take from the bank's custody what he might have lawfully taken as booty of war, and unlawfully seized and took away the property of the bank which he was without the slightest authority to take, and turned it over to the Treasury of the United States, where it now is, and has been for twenty-four years.

The Supreme Court in the cases cited above has decided such a seizure to have been unlawful. And if the seizure was unlawful there would seem to remain on the part of the Government the plain duty of righting the wrong. How to do this best and most safely to the interests of all concerned is the question. The bill under consideration provides that the amount thus unlawfully seized be restored directly to the bank. But here arise the questions which it would seem were clearly within the province of the courts rather than the legislature to determine.

First. What amount shall be returned to the bank? True, General Butler took the sum of $215,820.89 from the bank unlawfully. But he left in the hands of the bank a like sum in Confederate currency, which had some commercial value at the time. Whether the bank realized on it or not, or whether it was left by the bank to become valueless by the result of the war, and, if so, whether the bank is not guilty of laches, are questions which enter into the case and which should be decided by the courts.

Second. General Butler declares that the deposit of $215,820.89 was made in gold, silver, or its equivalent. The proof is strong that it was made in Confederate currency. General Butler was not in New Orleans in 1861 when the deposit was made. He had no means of knowing in what kind of currency the deposit was made, nor does he give his authority for his assertion. But little weight is therefore to be attached to his declaration in this regard. Still it is a question in the case which the courts should determine, for if said deposits were in lawful money it would seem that the bank only gave up what it received.

Third. Whether the printed notice in the depositors' bank books, that "thereafter all deposits should be paid in Confederate currency," did not constitute a contract between the bank and the depositors which could not be impaired, is yet another question for the decision of the courts rather than for Congress.

Finally. Whether, if General Butler did unlawfully seize the funds of the bank, interest is not justly due by the Government, which has had the use of the money since the seizure, is yet another question which the courts, and not Congress, should determine.

Your committee is therefore of the opinion that this claim should be referred to the Court of Claims, with right of appeal by either party, and that, considering the great length of time that has elapsed since the seizure, trial by preference should be awarded.

We therefore report a substitute for H. R. 3717 and recommend that the original bill be laid on the table and the substitute be passed.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 341.

MOBILE AND GIRARD RAILROAD COMPANY.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1239.]

The Committee on War Claims, to whom was referred the bill (H. R. 1239) for the relief of the Mobile and Girard Railroad Company, submit the following report:

This measure was considered in the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 1432, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 1771) for the relief of the Mobile and Girard Railroad Company, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, hereto annexed for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 3524, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 10941) for the relief of the Mobile and Girard Railroad Company, report as follows:

This is the claim of the Mobile and Girard Railroad Company, a body corporate, organized and incorporated under the laws of Georgia, for services rendered to the United States for the transportation of 2,128 paroled Confederate soldiers in the months of May, June, and July, 1865, from Union Springs, Ala., to Columbus, Ga., a distance of 54 miles, at the Government's then tariff rates of 2 cents per mile, amounting to $2,298.24.

On the 4th of May, 1865, Lieut. Gen. Richard Taylor, Confederate States army, entered into a "memorandum of the conditions of the surrender of the forces, munitions of war, etc., in the Department of Alabama, Mississippi, and East Louisiana," to Maj. Gen. R. S. Canby, U. S. Army, Article VIII of which is as follows:

"Transportation and subsistence to be furnished at public cost for the officers and men after surrender to the nearest practicable point to their former homes."

On the 5th day of May, 1865, Gen. Canby issued "General Field Orders, No. 36," to carry this cartel into effect, which contains the following:

"Transportation *and subsistence will be furnished* at public cost for the paroled *officers and men to the nearest practicable point* to their homes."

Lieut. Col. Stockton, of the Seventy-second Illinois Infantry Regiment, was in command of the United States troops at Union Springs, Ala., in May, June, and July, 1865, and on application made to him for transportation of Confederate paroled soldiers to their homes, addressed a letter, dated June 1, 1865, to Lieut. Col. Hough, acting assistant adjutant-general of the Sixteenth Army Corps, asking for instructions.

On this letter Col. Hough made the following indorsement and returned it to Lieut. Col. Stockton:

HEADQUARTERS SIXTEENTH ARMY CORPS,
Montgomery, Ala., June 3, 1865.

Respectfully returned. For all persons traveling over the road under your direction you will give transportation, *and for paroled soldiers going to their homes*, but transportation will only be furnished to persons in the military, naval, or civil service of the United States.

J. HOUGH,
Assistant Adjutant-General.

When this letter was received Col. Stockton swears—

"He handed it to the officer of the company (railroad company) with the statement that as the language was rather vague he did not feel warranted in giving vouchers or orders covering transportation of any outside of those in the Government service, but that they had better keep an account of such service rendered, and if the Government was responsible, he had no doubt but that it would eventually be paid for. Subsequently affiant remembers that several conductors of the road appeared before him and made affidavits covering accounts for the transportation of paroled soldiers."

These accounts, showing the number of paroled soldiers transported, sworn to by the conductors before Col. Stockton, are presented as the basis of this claim. The accounting officers rejected the claim on the ground that no orders were issued by the proper officers for such transportation, and, therefore, for want of privity of contract between the United States and the company.

The Comptroller adds:

"That the company may have an equitable claim against the Government, I am disposed to admit, but Congress alone can afford the necessary relief."

The Quartermaster-General states:

"The Quartermaster's Department has, by direction of the Secretary of War, paid the bills of railroad companies for the transportation of rebel paroled prisoners to their homes at the close of the war, but there is no record in this office of any such payment to the Mobile and Girard Railroad. It is believed that transportation of this character was furnished by this railroad, but that no written requests were made for such service by United States officers."

The liability of the Government to the company for this service can not be doubted. The cartel, the order of Gen. Canby, and the payment of all other accounts for this character of service, so far as the committee are informed, are sufficient ground on which to grant the relief prayed for.

The evidence as to the number of persons transported and their character as paroled soldiers, entitled under the terms of the cartel to transportation and subsistence at public cost, is the best, under the circumstances, which could be presented. The company took the precaution to require their conductors to keep an accurate detailed daily account of the number transported, and these accounts were sworn to before the officer whose duty it was to issue the required orders, but who appears to have objected to issuing orders, as he was directed, for the transportation of "paroled soldiers going to their homes," because they were not persons in the "military, naval, or civil service of the United States." The hastily written indorsement of Col. Hough could not have intended such an absurdity.

The liability of the Government for the services rendered is admitted, and the facts alleged by the claimant being clearly established, your committee recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 342.

AUGUSTUS P. BURDITT.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 668.]

The Committee on War Claims, to whom was referred the bill (H. R. 668) for the relief of Augustus P. Burditt, submit the following report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 3172, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 12008) to carry out the findings of the Court of Claims in the case of Augustus P. Burditt, having considered the same, respectfully report as follows:

That this is a claim by the surviving member of a partnership consisting of the claimant, Augustus P. Burditt, and one James Fisk, since deceased, both of whom are found to be loyal to the United States during the late rebellion, for the use of a steamboat called the *Mattie*, under military authority, for the use of the Quartermaster's Department, U. S. Army, from the 5th to the 31st of January, 1865, inclusive, amounting to twenty-seven days.

It is found by the Court of Claims that the steamboat was duly impressed into the service of the United States; that she was used for the period for which payment is claimed, and that her services were worth the sum of $190 a day, amounting to the sum of $5,130. The findings of the Court of Claims are hereto annexed. Your committee therefore report back the bill (H. R. 12008) favorably and recommend its passage.

[House Mis. Doc. No. 236, Fifty-first Congress, first session.]

A copy of the findings of the Court of Claims in the case of Augustus P. Burditt against the United States, transmitted by the clerk of said court.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, June 17, 1890.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883.

I am, very respectfully, yours, etc.,

ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

Hon. THOMAS B. REED,
Speaker of the House of Representatives.

Court of Claims, term of 1889-'90. Congressional No. 348. Augustus P. Burditt v. The United States.]

The claim or matter in the above-entitled case was transmitted to the court by the Committee on War Claims of the House of Representatives the 27th day of February, 1885.

Leon D. Geneste appeared for claimant, and the Attorney-General, by J. W. Rannells, esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing the 15th day of May, 1890, the court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, find the facts to be as follows:

I.

The claimant resided in Massachusetts until 1852, when he took up his residence at Olive Branch, De Soto County, Miss., and in 1859 changed his residence to Memphis, Tenn., where he resided until the close of the war. He now resides in Boston, Mass.

In the years 1864 and 1865 the claimant, Augustus P. Burditt, and one James Fisk, since deceased, were in partnership and owned a steamboat called the *Mattie*, of 149 tons burden, and of which Matt. A. Glass was master, and which was enrolled, as shown in the following certificate:

UNITED STATES CUSTOM-HOUSE,
Memphis, Tenn, February 16, 1870.

I hereby certify that the steamer *Mattie*, of 149 tons burden, was enrolled and licensed for the coasting trade in this office, as appears of record, by G. N. Carlton, surveyor, on the 24th day of May, A. D. 1864, as per enrollment No. 49, permanent, owned by A. P. Burditt and James Fisk, of Memphis, one-half each, and regularly cleared and permitted by competent authority under the Treasury regulations made in compliance with existing laws at that time for the regulation of the coasting trade between the United States and the States in rebellion.

Witness my hand and seal of office day and date above written.

[SEAL. D. C. TRADER,
Surveyor of Customs.

II.

November 18, 1864, the said steamboat was seized by Capt. C. H. Gaubert, an assistant quartermaster of the United States Army, for the military service at the port of St. Louis, Mo., where she was then in use by her owners, and was used by the military authorities of the United States to transport army stores to Little Rock and Devall's Bluff, the latter on White River, Arkansas. During her trip to Devall's Bluff her main shaft broke, and when she reached Devall's Bluff her cargo was unloaded and she was released from the service of the United States on the 4th day of January, 1865.

January 7, 1865, a new shaft having been put into said steamboat, she was again seized by an officer of the Quartermaster's Department, United States Army, at Devall's Bluff, and used in the transportation of army stores from that date until the 22d of January, 1865, when she was again discharged from the service of the United States at said Devall's Bluff.

It would have taken her at least nine days, or until the 31st of January, 1865, to return to St. Louis, Mo., where she had originally been taken.

The captain and crew were paid during all the time of impressment by the owners of the steamboat.

III.

No payment has been made for the services of said steamboat from the 5th day of January, 1865, to 31st day of January, 1865. A reasonable value of the aforesaid services of said boat and crew would be the sum of $190 a day; an amount which had previously been paid for the boat by the Quartermaster's Department. The cost of running the boat to the owners was $175 per day.

The accounting officers of the Treasury disallowed this claim, holding that they had no jurisdiction, ont the ground that the impressment had occurred in an insurrectionary State.

IV.

Augustus P. Burditt, the claimant, and James Fisk, his partner, were loyal to the United States during the late rebellion.

Filed June 9, 1890.

A true copy.

Test, this 17th day of June, 1890.

[SEAL.] ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 343.

NICHOLAS J. BIGLEY.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1182.]

The Committee on War Claims, to whom was referred the bill (H. R. 1182) for the relief of Nicholas J. Bigley, submit the following report:

The history of the claim is set forth in House report from the Committee on War Claims, first session, Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

House Report No. 346, Fifty-first Congress, first session.

FEBRUARY 21, 1890.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. THOMAS, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 7306.]

The Committee on War Claims, to whom was referred the petition of Nicholas J. Bigley, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report herewith a bill and recommend its passage.

[House Report No. 2373, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the claim of Nicholas J. Bigley, report as follows:

That the Committee on War Claims of the Forty-ninth Congress, to whom was referred the claim of Bigley, not being fully and clearly advised of all the facts in the case, referred the same to the Court of Claims for a finding of facts under the provisions of the Bowman act.

This claim has been returned by the said court with a finding of facts.

Your committee report herewith a bill for the relief of the claimant, and recommend its passage, and ask that the miscellaneous document be printed.

[Court of Claims. Congressional Case No. 696. Nicholas J. Bigley vs. The United States.]

FINDINGS OF FACT.

At a Court of Claims, held in the city of Washington on the 9th day of April, A. D. 1888, the court filed the following findings of fact, to wit:

The claim in the above-entitled case for supplies, or stores, alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, was transmitted to the court by the Committee on War Claims, House of Representatives, on the 5th day of April, 1886.

Gilbert Moyers, esq., appeared for claimant, and the Attorney-General, by Lewis Cochran, his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry the court, on the 13th day of December, 1886, found that the person alleged to have furnished the supplies or stores, or from whom they were alleged to have been taken, was loyal to the Government of the United States throughout said war.

The case having been brought to a hearing on its merits on the 21st day of March, 1888, the court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, finds the facts to be as follows:

(In this, as in other cases under the Bowman act, we express no opinion upon the law or equities of the case, not being required so to do.)

The claimant is a citizen of the United [illegible] iding at Pittsburgh, where he resided during the year 1863 and subse

I.

In January, 1865, one E. S. Blasdale received the following order:

QUARTERMASTER'S OFFICE,
Memphis, Tenn., January 24, 1863.

E. S. BLASDALE, Esq.:

Please furnish to this depot from 75,000 to 100,000 bushels of Youghiogheny coal and also 2,000 tons of hay, for which a good market price will be paid; coal at 30 cents per bushel, and hay at $27.50 per ton.

A. R. EDDY,
Per DAN. W. SEMBER,
Chief Clerk.

II.

Some time in February, 1863, said Blasdale went to the claimant with said order and asked him to supply the order for coal, saying that he, the claimant, could get a convoy at Cairo to take him down, as it was dangerous, because it would be necessary to pass for about 250 miles through the enemy's lines to get to Memphis. The claimant consented to deliver the coal.

III.

He thereupon loaded six barges with coal at Cincinnati and Louisville, and they were towed down the river by his steamer *Hercules*. On arriving at Cairo the claimant went to Captain Pennock, in command of the post there, and demanded a convoy, which was refused.

Continuing down the river, about 10 o'clock at night they landed at the fort of Island No. 35, above Memphis, and made fast to some trees. The next morning they started down the river in order to make Memphis by daylight, keeping along the right bank, or Arkansas side, of the river, on account of the dense fog, and not being able to see anything on the Tennessee side. The captain was afraid to cross the river, the fog was so heavy. He decided that it would be very hazardous to undertake it, and in place of going over to the coal-landing on the Memphis side of the river he kept on down along the Arkansas shore and got in below the point nearly opposite, and when he got along the point nearly opposite he landed there just above the head of the bar. The river was very high at the time, nearly bank full, and it was very easy landing there on a good stage of water.

When the boats were made fast a band of Confederate guerrillas came on the bank, fired upon them, and killed one man. Three of the band went on board the tow-steamer *Hercules*, while the others stood on shore with revolvers in their hands, pointed at the steamer. They burned the *Hercules* and took the claimant, the captain, and the crew as prisoners, marching or conveying them some 12 miles into the country and keeping them there on a plantation until the next morning, when all were paroled and discharged.

Making their way back to the shore with his men, the captain saw, at some distance below, the United States gun-boat *Cricket*, to which he made signal, and they were all taken on board by means of the boats of the *Cricket* sent out for them. The gun-boat then steamed over to Memphis.

The tow-boat *Wisconsin* was at Memphis, and the claimant sent to the captain to get him to go and bring the barges over the river, which the latter refused to do, stating that he could not do it without orders.

The claimant then applied to Captain Langthorn, who wrote a note to the captain of the *Wisconsin*, and the latter consented to go. He towed over one barge at a time, and after the second was towed over it became dark and he did not go again. The claimant then went to Captain Langthorn and told him that there were still four barges left, and that they would be lost unless guarded; and he said, "I have guarded them ever since or shortly after your boat was set afire, and I had charge of them until we took you aboard; but now you see the *Crickett* is the only gun-boat at Memphis to-night, and I have to lay alongside of the commissary boat." After that the claimant went to headquarters with a note from Captain Langthorn to see Major-General Hurlbut and see if he would send down a squad of men to guard the barges. He was not in, but General McPherson was in, and the claimant stated to him the facts as stated before, and "that the coal was Government coal, and that it had been guarded by the *Crickett* until now, but that the *Crickett* could not guard it that night, so I was told by the captain, and I would like to have a guard to watch it;" and thereupon a guard was ordered down to the boat, and by some means they were not taken over to the barges.

That night the four remaining barges were sunk by the Confederates and wholly lost to the claimant, including the coal thereon.

IV.

The coal on the two barges towed over to Memphis was paid for by the defendant's officers at that place.

The four barges sunk and destroyed were worth sixteen hundred dollars ($1,600.00) each, and there were upon them when sunk 70,638 bushels of coal, of the value of twenty-one thousand two hundred and eleven dollars and fifty cents ($21,211.50), and the value of the tow-boat *Hercules* was fifteen thousand dollars ($15,000.00) none of which has been paid.

BY THE COURT.

Filed April 9, 1888.
A true copy.
Test, this 15th day of May, A. D. 1888.
[SEAL.]

JOHN RANDOLPH,
Asst. Clk C't of Claims.

[In the Court of Claims. December term, 1885. Nicholas J. Bigley *vs.* The United States. No. 696. Cong.]

PETITION.

[Filed May 7, 1886.—J. R.]

To the honorable the Court of Claims of the United States:

Your petitioner, Nicholas J. Bigley, respectfully represents—

That he is a citizen of the United States, residing in the city of Pittsburgh, State of Pennsylvania, where he resided during the late war of the rebellion; that by virtue of an order from Capt. A. R. Eddy, of the U. S. Army, depot Q. M. at Memphis, Tenn., of date Jan. 24, 1863, be delivered to the U. S. military authorities at Memphis, Tenn., on or about the 17th day of February, 1863, 70,638 bushels of coal, at 30 cents per bushel, the price stipulated in said order, and the market value at the time at Memphis, Tenn., $21,211.40; that he was the sole owner of the steamer tow-boat *Hercules* and the four coal barges containing said coal; that after arriving at Memphis the said tow-boat and said coal barges were destroyed or sunk by a force of Confederate guerrillas while under the protection and subject to the control of the U. S. military authorities; that said steamer tow-boat *Hercules* was at that time worth $25,000 and coal barges worth $2,500 each, $10,000.

Your petitioner further states that his claim for compensation for said coal and steamer *Hercules* was presented to the Quartermaster-Gen'l under the act of Congress approved on Nov. 12, '67, and was by said officer disallowed about the 11th day of May, 1869, on the ground that the "Congress alone, it seems to me, can give relief. The loss was a heavy one, and the circumstances are such as I think should commend the case to the favorable consideration of Congress."

Your petitioner, knowing such decision to be unjust, petitioned the Congress of the United States for relief, and on or about the 5th day of April, 1886, said petition was, by the Committee on War Claims of the House of Representatives, referred to the honorable Court of Claims, under section 1 of an act of Congress approved March 3, 1883, entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government."

Your petitioner further states that his said claim has not been assigned or transferred, and he is the sole owner thereof; that it is correct and just; that he did not give any aid or comfort to the late rebellion, but was throughout that war loyal to the Government of the United States.

Wherefore your petitioner prays that, when the facts shall have been ascertained as to his loyalty and the justice of his claim, the same may be reported to the House of Representatives of the United States or to the said Committee on War Claims, as provided in said act of March 3, 1883.

NICHOLAS J. BIGLEY.

GILBERT MOYERS,
Attorney for Claimant.

Personally appeared before me Nicholas J. Bigley, who, being duly sworn, says that the statements contained in the foregoing petition are true, to the best of his knowledge, information, and belief.

Subscribed and sworn to before me this 7th day of May, 1886.
[SEAL.]

THOS. J. MYERS,
Notary Public.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 344.

JAMES W. SCHAUMBURG.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1790.]

The Committee on War Claims, to whom was referred the bill (H. R. 1790) for the relief of the legal representatives of James W. Schaumburg, submit the following report:

This measure was considered by this committee in the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee adopt the said report as their own, and recommend the passage of the bill.

[House Report No. 1908, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (S. 986) for the relief of the legal representatives and devisees of James W. Schaumburg, report as follows:

Your committee adopt the report made by the Committee on Claims of the Senate of the present Congress, and report back the bill and recommend its passage, and annex therewith a copy of Senate report for information.

Senate Report No. 95, Fifty-first Congress, first session.

Mr. MITCHELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 986.]

The Committee on Claims, to whom was referred the bill (S. 986) for the relief of James W. Schaumburg, having had the same under consideration, beg respectfully to submit the following report:

A similar bill was before this committee at the second session of the Forty-ninth Congress, when the following report (No. 1626) was agreed to. This report was also adopted by this committee at the first session of the Fiftieth Congress. It is as follows:

Your committee find, upon a full examination of this claim, that the rights of the claimant depend upon the single question whether he ceased to be a first lieutenant in the Army in consequence of an order issued by the Adjutant-General, June 30, 1836. If that order was legal and valid the claim is without merit, and if it was invalid there can be no doubt the claimant is justly and legally entitled to the amount named in the bill.

The circumstances under which the order was issued are fully set forth in a letter written by ex-President Jackson, June 12, 1843. In this letter General Jackson sets out in detail the methods resorted to by certain officers unfriendly to the claimant, in an attempt to find or create a technical ground for unjustly depriving the claimant of his position as lieutenant in the Army. The facts narrated in this letter, and substantiated by the records of the War Department, tend to convince your committee, as they then convinced General Jackson, that issuing the above order of the Adjutant-General was a wrongful usurpation; that the order was without authority and void, and that the claimant continued a lieutenant, entitled to the pay and emoluments of the position.

President Tyler was of the same opinion, and his official letter of date January 24, 1845, said:

"I have only to say that on a thorough and minute examination of your case, and a most patient and elaborate examination of all the facts and circumstances, I came to the conclusion that you had never been properly out of the Army."

And he says he based his official action on that conclusion.

The same conclusion was reached by other distinguished men connected with the administration of the Government, many of whom expressed their indignation at the wrongful attempt to deprive Lieutenant Schaumburg of his position in terms not much less emphatic than those employed by General Jackson.

Secretary Folger, upon an examination of the facts of the case, and upon learning that the accounting officers considered the case not open for their consideration because it had been acted upon by the Auditor and Comptroller in former years, was so strongly impressed with the absurdity of the rulings made on this subject in 1845 that of his own motion he addressed a letter to the Senate Committee on Appropriations, recommending—

"That authority be given to the accounting officers of the Treasury to audit and allow the claim and that an appropriation of $11,000, or so much thereof as may be necessary, be provided for it payment."

If the validity of the order of June 30, 1836, purporting to relieve Lieutenant Schaumburg from the military service could properly be considered an undetermined

question, it might be the duty of the committee to set forth in detail the personal considerations and influences that originated the order, but the illegality and invalidity of the order and of the attempt to deprive Lieutenant Schaumburg of his position in the Army has been directly and conclusively settled by a judgment of the district court of the United States for the eastern district of Pennsylvania, and the judgment was affirmed on appeal to the Supreme Court of the United States.

In an action between the United States and the claimant, commenced in the district court in September, 1874, and determined in November, 1875, the legality of the order and the question whether the claimant, Schaumburg, was a lieutenant during the period in question, was directly in issue, and the court, having before it the orders of the War Department, made during the attempt of Lieutenant Schaumburg's enemies to deprive him of his position in the Army, and the entire records relative to the subject, instructed the jury, as a matter of law, that Schaumburg, "from July 1, 1836, until March 24, 1845, was in the military service of the United States as a first lieutenant of dragoons or cavalry, and that he was entitled as such to credit for the pay and emoluments that accrued during that period," and a verdict and judgment were rendered in accordance with the instruction. This judgment was a judicial determination of the invalidity of the order, and that Lieutenant Schaumburg continued in the service. From this judgment an appeal was taken to the United States Supreme Court, and the judgment was affirmed. (Schaumburg *v.* United States, 13 Otto, 667.)

The court, under the issues presented, having full jurisdiction to determine Schaumburg's right to the office and to its emoluments, the nature of the issues required present payment or allowance in that cause of only $306.20 of the $11,471.51 then due to Schaumburg, thus reducing the indebtedness to $11,165.31; and it not being the province of the district court to render judgments directing present payment by the Government, this balance still remains unpaid. But as it was within the jurisdiction of the court to ascertain and determine whether Mr. Schaumburg was in the Army, and entitled to pay, in order to determine whether the set-off should be made, the judgment is conclusive on whatever question was necessarily involved in that suit. It is, in the opinion of your committee, conclusive that Schaumburg was a lieutenant in the Army, notwithstanding the order of June 30, 1836, and of all that is material in the present claim, it being an elementary principle that the judgment of a court having jurisdiction is conclusive of the point determined in any future inquiry between the same parties relative to the same subject-matter.

Although this judgment would seem to render a further consideration of the validity of the order unnecessary for any purpose of determining the legal rights of the claimant, consideration for the hardships and delays to which the claimant has been subject for want of a full understanding of the questions involved may justify a brief statement of the points originally involved.

Long prior to 1836 it had become a practice, having the approval of the War Department, that when some emergency rendered it important to an officer that he should absent himself from a distant post of duty sooner than it was possible to obtain an order granting leave of absence, the officer, at his own risk, made a formal tender of his resignation, conditioning the resignation to take effect at a specified future time. The resignation was inclosed with a letter explaining the emergency, asking the leave of absence, and requesting that the resignation be not accepted.

On the 6th of June, 1836, Schaumburg, then being a second lieutenant and stationed at Fort Des Moines, was informed that his father was sick and could not survive many weeks, and he sent such a letter with his resignation as second lieutenant, conditioned to take effect October 31 following.

June 28, 1836, the War Department issued an order forbidding the further continuance of that practice, and requiring all officers then absent under that practice to resume their duties within three months or to vacate their commissions. It also contained the following:

"If the resignation of any officer be accepted, it shall take effect within thirty days from the date of the order of acceptance."

By misconstruction of this language and misconception of legal rights the Adjutant-General issued an order on the 30th of June, 1836, purporting to accept the resignation of Second Lieutenant Schaumburg, to take effect July 31, 1836, disregarding the condition that had been made part of the proposed resignation; and in attempting to give force to the action then taken on the qualified resignation as second lieutenant, the Adjutant-General ignored the fact that after this attempt, namely, on July 1, 1836, Schaumburg was promoted and received a re-appointment to the position of first lieutenant, being duly commissioned on July 1, 1836. Schaumburg subsequently accepted the office of first lieutenant.

The incidents referred to in this connection occurred in the following order:

June 9, 1836, Second Lieutenant Schaumburg tendered his resignation as second lieutenant, conditioned to take effect October 31, 1836; June 28, 1836, a general order was issued changing the practice; June 30, 1836, an order was issued purporting to

accept the resignation of Schaumburg, to take effect July 31, 1836; July 1, 1836, Schaumburg was commissioned first lieutenant; July 12, 1836, he heard for the first time of the attempt to accept his resignation contrary to its terms, and on that date he wrote from Wheeling, Va., to the Secretary of War, withdrawing his resignation and asking the benefits of the general order. Afterwards he heard of and accepted his appointment as first lieutenant.

Your committee attach hereto the letter of ex-President Jackson, herein referred to, and in which the history of this case is fully, clearly, and graphically set out. Also, the letter of Secretary of the Treasury Folger, recommending the payment of this claim. That all the questions, however, involved in this claim may be passed upon judicially, in a direct manner, your committee report back as a substitute for Senate bill 1006, the accompanying bill, and recommend its passage.

THE HERMITAGE, *June* 12, 1843.

Lieut. JAMES W. SCHAUMBURG, *Philadelphia, Pa.:*

MY DEAR SIR: I received your letter with a statement and accompanying documents relating to your having been irregularly put out of the Army.

* * * * * * *

I first note that you were stationed at Fort Des Moines, on the Upper Mississippi, and that you had learned from your family at New Orleans your father was sick and could not survive many weeks, and you applied to your commanding officer, Lieut. Col. S. W. Kearney, to then allow you to go to New Orleans to visit your good father, fearing he would not live until a leave of absence could be granted and come from Washington. This reasonable request to leave was refused by Lieutenant-Colonel Kearney, which was very unfeeling and discreditable to him, as such an indulgence, when no great public necessity forbade you leaving your post, should have been granted. There appears to have been no such obstacle; and therefore the refusal could only have been owing to personal ill-will or a degree of insensibility unbecoming any officer.

The refusal of your commanding officer compelled you to write to Washington for a leave of absence to enable you to go and see your dying parent. Some weeks elapsed before your application was returned. The commanding general indorsed on your application that the leave for three months to go to New Orleans would be granted, providing the commanding officer should deem it proper to allow it. This was no better than a refusal, as it left it to be granted or not to your commanding officer who had improperly refused you. He did not think it proper to grant it. It appears that Lieutenant-Colonel Kearney had placed you in arrest, though no charges were ever preferred against you, and he based his refusal to allow you a furlough because he expected a court-martial would some time or other convene for your trial and you could not leave. You remained in arrest over eight months; no court was ever ordered for your trial, and no charges were ever written or presented against you, and Lieutenant-Colonel Kearney himself was ordered away from the post and you still in arrest up to the 6th of June, 1836.

Colonel Kearney having left you at the post under command of Capt. E. V. Sumner, Colonel Kearney instructed him (Captain Sumner) to hold you in arrest. After Lieutenant-Colonel Kearney, you applied to Captain Sumner to grant you the leave sent from Washington, which left it to the commanding officer to grant or not. Captain Sumner answered that he could not let you go for the reason that Colonel Kearney had instructed him on leaving not to grant it. This was not creditable to Colonel Kearney, and Captain Sumner, being commanding officer of the post, was not under Colonel Kearney's orders after he had left to command elsewhere. The responsibility for your presence or absence was not upon Colonel Kearney, but upon Captain Sumner, and had he granted you the three months' leave sent from Washington, he was not responsible for your absence. Captain Sumner refused to let you go for the reason stated, and finding yourself thus blocked, and as it strikes my mind forcibly, the purpose aimed to be accomplished was obtained. You wrote a letter of resignation on the 6th of June, 1836, to the Secretary of War, requesting the acceptance of your resignation, to take effect the 31st of October following.

You were a second lieutenant of the regiment of dragoons. Accompanying this letter was your letter to General Macomb, general commander-in-chief, expressing your sincere regret in being thus obliged, to enable you to go to New Orleans, to write your resignation; the more so as you were in arrest, with charges alleged against you, and you expressed an earnest wish that your resignation would not be accepted, at least not until you had an opportunity to defend yourself before a court-martial.

This was as honorable as your request was reasonable, and should have been so appreciated by the commanding general. Captain Sumner very properly recommended, in his letter to the Adjutant-General covering your tender of resignation and your *letter requesting* an investigation, that your earnest request should be granted.

Your reasonable and honorable request which Captain Sumner, with good feeling, thought should be granted to you, was disregarded, and the time conditioned in your letter for your resignation to take effect, to wit, the 31st of October, was shortened, and Lieutenant-Colonel Kearney wrote to the Adjutant-General expressing his most sincere hope that you would not be permitted to withdraw your resignation, which was an impertinent officiousness, as it was from personal feeling against you, and none of his business. The Special Order No. 44, dated June 30, 1836, says: The following resignations have been accepted by the President, to take effect at the date set opposite their names, respectively, and your name is given in the list as resigning as first lieutenant, and the date for it to take effect is the 31st of July, 1836.

The letter you wrote was of your resignation of the office of second lieutenant and not that of the higher office of first lieutenant, which, as you did not resign, the Executive or "proper authorities" could not have accepted as stated in the general order. You were some time before entitled to be a first lieutenant, but at the period of writing your resignation you were a second lieutenant, not having been promoted or notified of your promotion. If you had been you would not have written your resignation and signed yourself as a second lieutenant. You conditioned your termination of service to be the 31st of October. One thing or the other, if an officer has the right to specify the time to which his services end, and if the authorities are unwilling to allow the time it is for them so to acquaint him and say what time would be allowed. If he likes the terms he would agree, and if he did not he would remain; but the authorities have no right to alter the time by any arbitrary order. I would not have permitted such a thing to be done.

An officer's commission in the military service of his country is a vested right which he holds under the laws for the government of the Army and Navy, and can not be infringed upon. I consider the pretended acceptance of your resignation of your office as a second lieutenant as an official misdemeanor, which, had you brought the facts to my knowledge when I was President, I would have dismissed the officers who so disgracefully connived at your separation from the Army, as the facts in your case exhibit in the documents before me.

I notice in the Army Register, in the list of officers below you in the regiment, the name of A. S. Macomb as a brevet second lieutenant, that the acceptance as illegal of your resignation advanced that officer, and he is a son of the commanding general by whose orders the special order promulgating your resignation was issued by the Adjutant-General, who should not have obeyed or countenanced the command, as he must have known it was a false proceeding. It appears you went to New Orleans as expeditiously as you could, and made haste to go to Washington to prevent your resignation from being acted upon. You wrote from St. Louis, New Orleans, and Wheeling to the Adjutant-General and to General Macomb, asking not to act upon your resignation; and at Wheeling you wrote to claim the benefit of the President's direction, published in General Order 43, dated June 28, 1836.

This order I remember to have directed the Adjutant-General to issue. * * *

As your resignation was dated on the 6th of June, twenty two days before the date of the order, viz. the 28th of June, you were entitled to the privilege expressed in the second paragraph, which referred to all such as had resigned at some date anterior to the date of the order. Your resignation was received, as appears by the Adjutant-General's indorsement, 23d June, which was five days before the date of the order. If this is denied, and the only proof that it was accepted after is the Order No. 44, 30th June, in which your name is mentioned as resigning your office of second lieutenant, and as accepted to take effect the 31st of July, two days after the Order No. 43, viz, the 30th of June, then it convicts the military officials of the War Department of a premeditated purpose to exclude you from the privilege of the paragraph which was to cover all resignations offered or accepted before the date of the order, and it is clear that the purpose was to exclude you by saying your resignation was comprehended under the prospective paragraph of the Order 43, which could not possibly be so, as the paragraph was notice to all who resigned after the date of the order that their resignation, if accepted, would be accepted to take effect thirty days after the date of the acceptance.

Your tender of resignation was twenty-two days before the date of the Order 43, and the excluding you from it, under the prospective paragraph, was dishonest, and such an act should be severely punished. The integrity of the records of the Adjutant-General's Office, by that act against you, carries with it a blemish which should be wiped out. It appears that you went to Washington and reported to the Adjutant-General, claiming the benefit of the President's directions contained in the General Order No. 43, and you were answered that your resignation had been accepted, to take effect the 31st of July, 1836.

According to the second paragraph of General Order No. 43, you reported in person on the 22d of July. The order allowed to all officers whose resignations *had been* effected to take effect at some prospective date who would "elect" to continue in the

service three months to join their corps or regiment. You went to the General-in-Chief to report yourself and ask that the matter might be corrected. He answered that nothing could be done. Your resignation was accepted to take effect as stated in the Special Order No. 44, to wit, the 31st of July, and it could not be canceled.

You protested in writing against this order, and claiming the benefit of the President's directions, as you had come to report for orders to return to duty, and that the Order No. 44 was false in saying the President had accepted the resignation of your office of first lieutenant, which you had not resigned. You stated that, as neither the General-in-Chief nor the Adjutant-General would do anything in the matter, you called on the Secretary of War, and stating the facts to him he said that you should be righted, but asked you to let the matter rest, as it would be embarrassing to revoke or cancel the Order 44, and that on the occurrence of a vacancy of first lieutenant you would be ordered back to your regiment. Upon this assurance of the Secretary of War, General Cass, you went to your home to await a vacancy for first lieutenant and orders thereon.

General Cass left the War Department before a vacancy occurred; at all events you were not afterwards ordered to return to duty. You some time after wrote to Mr. Poinsett, Secretary of War, who succeeded General Cass. He answered you that he could not see any difference in your resignation or the acceptance of it from any ordinary resignation, and, therefore, that he could not order your name to be replaced on the Army roll. Mr. Poinsett came to this conclusion by relying upon the Adjutant-General's report of the facts, which does not truly represent the facts of record. If Mr. Poinsett had examined with half an eye the correspondence and the orders, he could not have failed to discover the wrong done to you, and the violatian of official integrity amounting to dishonesty. Your application failing here, you should have applied to the President.

Your next application was to Secretary Spencer, Secretary of War, now or lately under the present Chief Magistrate, as appears from your memorial. Mr. Spencer answered somewhat as Mr. Poinsett, that he considered your resignation as perfect and effectual as accepted to take effect the 31st of July, and then stultified the assertion by saying you were entitled to be paid as a first lieutenant up to the 31st of October, the period specified in your letter of resignation.

Now, if your resignation, as alleged to have been accepted to take effect the 31st of July, was, as he says, "perfect and effectual," you certainly were not an officer *after* that date; and not being an officer you could not receive pay, etc., up to the 31st of *October*—that is, for three months. If you were entitled to pay, etc., up to the latter date, then you were still in the service, for you could not be in as to pay and out as to commission. So Mr. Spencer's argument or reasoning was mere nonsense, neither agreeing with facts nor logic. Mr. Spencer, as you rightly suspected, acted upon the misrepresentations of the Adjutant-General and prejudicial counseling of General Scott, whose well-known exquisite sense of justice and right is regulated according to his personal inclinings and perverted conceptions.

I have gone through the memorials and various documents, and as I progressed my interest was excited, for the case presented in itself so much wrong—premeditated wrong by high officials—I felt that I should examine it thoroughly with Major Donelson, and I write out my understanding of the matter, notwithstanding I am in constant pain, and have to rest very often, but it is on the side of justice and right I am engaged. You have been very improperly treated, and had you come to me after General Cass left the War Office, I should have righted you, and punished Macomb, Jones, and Kearney for acting as they did towards you, and had the official records cleared of falsification.

I say you have never ceased to be in the Army. Your resignation amounted to nothing. You did not resign your office of first lieutenant. You were fully entitled to the benefit of my directions published in General Orders No. 43, as you applied for orders under it. You were fairly and justly so entitled, and your constant efforts to have your rights recognized is creditable to you. I hope you will persevere.

If I were President, I would put you back if it made you colonel of the regiment, and I hope President Tyler, to whom you should appeal, will order your re-instatement and promotion to the position your commission as first lieutenant under the laws entitle you to. You are at liberty to show this letter to the President.

I remain, very respectfully, your friend,

ANDREW JACKSON.

TREASURY DEPARTMENT, *July* 11, 1882.

SIR: I have the honor to inclose herewith copies of papers in the claim of James W. Schaumburg for pay and allowances as lieutenant of dragoons from July 1, 1836, *to March 24, 1845*, and to recommend that authority be given to the accounting

officers of the Treasury to audit and allow the same, and that an appropriation of $11,000, or so much thereof as may be necessary, be provided for its payment.

Very respectfully,

CHAS. J. FOLGER, *Secretary.*

Hon. WILLIAM B. ALLISON,
Chairman Committee on Appropriations, United States Senate.

Your committee adopt this as its present report and report back the bill (S. 954) without amendment, and recommend its passage.

Your committee adopt the foregoing as its present report and report back the bill (S. 986) without amendment, and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 345.

HAMILTON CREWS.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, of Missouri, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 89.]

The Committee on War Claims, to whom was referred the bill (H. R. 3558) for the relief of Hamilton Crews, submit the following report:

The claimant alleges a claim against the United States for damages sustained by the burning of the Chillicothe House while occupied by the United States as a hospital.

It seems to your committee that an investigation by the Court of Claims is necessary before intelligent action can be had upon this claim.

Your committee, therefore, report herewith a resolution referring the claim to the Court of Claims for a finding of facts under the provisions of the acts of March 3, 1883, and of March 3, 1887, and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 346.

MRS. CATHERINE BARRY MEEHA.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 90.]

The Committee on War Claims to whom was referred the bill (H. R. 4356) for the relief of Mrs. Catherine Barry Meeha, submit the following report:

It is alleged that during the late war the Army of the United States took from the claimant property of the value of $21,825.

It seems to your committee that an investigation by the Court of Claims is a matter of necessity before intelligent action can be had upon this case.

The committee therefore report herewith a resolution referring the claim to the Court of Claims under the provisions of the acts of March 3, 1883, and March 3, 1887, commonly known as the Bowman and Tucker acts, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 347.

MARINETTE AND WESTERN RAILROAD COMPANY.

FEBRUARY 15, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LYNCH, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 5133.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 5133) to authorize the Marinette and Western Railroad Company to construct a railroad through the Menomonee Reservation, in the State of Wisconsin, submit the following report:

Your committee has had the above bill under consideration, and report the same back with two amendments, as follows:

Insert after the word "graded" in the eighth line, on page 5, the following:

And also fifteen dollars per mile, so long as such reservation shall be used and occupied as a reservation by said tribe of Indians.

Also amend by adding a new section, to be designated as section 11, as follows:

SEC. 11. That said railroad company shall not charge more for the transportation of freight or passengers through said reservation than for like services outside of same.

The committee has examined said bill and find that it is in the usual form and contains all the usual restrictions and protective legislative features and provisions contained in such bills, and that as amended we recommend that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 348.

REV. M. M. TRAVIS.

FEBRUARY 15, 1892.—Laid on the table and ordered to be printed.

Mr. HOPKINS, of Pennsylvania, from the Committee on Indian Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3211.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 3211) for the relief of Rev. M. M. Travis respectfully report:

The claim in bill 3211 is not legal and hardly equitable, and the character of the charges renders it one where charity should be exercised with great care only, and is reported adversely.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 349.

CHARLES H. ADAMS.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5944.]

The Committee on War Claims, to whom was referred the bill (H. R. 5944) for the relief of Charles H. Adams, submit the following report:

The facts out of which this bill for relief arises will be found stated in House Report No. 3643, from the Committee on War Claims of the Fifty-first Congress, which is appended to and adopted as a part of this report.

Your committee report back the bill and recommend its passage without amendment.

House Report No. 3643, Fifty-first Congress, second session.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 12332.]

The Committee on War Claims, to whom was referred the bill (H. R. 12332) for the relief of Charles H. Adams, have considered the same, and submit the following report:

The facts in regard to this claim are substantially as follows:

At the time the claim originated, Gen. Robert Allen was chief quartermaster for the valley of the Mississippi, with headquarters at Louisville, Ky.; Col. William Myers was chief quartermaster for the department of the Missouri, with headquarters at St. Louis, Mo.; Capt. William Currie was an assistant quartermaster, under Colonel Myers, at St. Louis, and had charge of purchasing all forage for the use of the Army; Capt. Patrick Flanigan was also an assistant quartermaster, under Colonel Myers, stationed at Cairo, Ill.

The Illinois Central Railroad was then under the control of the military authorities and subject to the military orders in the transportation of stores and supplies for the Army, and was paid by the Government for all property belonging to the Government transported over said road at certain fixed rates, which were two-thirds of the rates charged private property transported.

The act of March 2, 1861 (12 Stat., 220), provided that when public exigency required forage or other stores or supplies for the use of the Army or Navy, the proper officer was authorized to purchase or contract for them at the places and in the same manner in which such articles were usually bought and sold between individuals, without advertising for proposals.

The act of July 4, 1864 (13 Stat., 394), established in the Quartermaster's Department nine divisions, to be placed in charge of officers of the Department.

The fifth division was charged with the purchase, procurement, issue, and disposition of forage and straw for the Army.

The fourth division was to have charge of all transportation by land and Western rivers, including all railroad and telegraph lines operated by the United States for military purposes.

Said act further provided that the heads of divisions should advertise for proposals for supplies needed, and that such supplies so purchased or contracted for should be subject to inspection.

The quartermaster-general was directed to establish depots for the principal armies in the field for receiving and distributing the supplies necessary, but such supplies might be sent from the place of purchase directly to the quartermaster in cases where it was more economical so to do.

Said act further provided that when an emergency existed requiring immediate procurement of supplies for an army or detachment, the chief quartermaster of the department was authorized to procure them in the most expeditious manner, without advertising for proposals.

This latter act did not change or conflict with the provisions of the act of March 2, 1861, authorizing the purchase or contracting for of supplies in open market in cases of public exigency, in the same manner as such supplies were bought, sold, and inspected, between individuals.

The construction given these laws by the Quartermaster's Department officers was to advertise for proposals for such quantities of forage as they estimated would be necessary, but, if they found that they needed more than was contracted for, they purchased, or contracted for, such additional quantity as was needed in open market upon the basis of the prices named in the proposals that had been accepted under the advertisments for bids.

On March 28, 1865, Captain Currie, by order of Colonel Myers, purchased from the claimant 18,000 bushels of corn, then stored at Manteno, Ill., to be delivered at Cairo, at and for the price of 1.44\frac{9}{10}$ per bushel, and thereupon sent the following order to the freight agent of the Illinois Central Railroad Company:

ASSISTANT QUARTERMASTER'S OFFICE, FORAGE DEPARTMENT,
St. Louis, Mo., March 28, 1865.

MR. ROBERT FORSYTHE,
General Freight Agent Illinois Central Railroad:

SIR: I have this day purchased of Mr. C. H. Adams 18,000 bushels of corn, to be delivered at Cairo, Ill., as soon as possible, "sending freight bills to this office." Said corn will be shipped from Manteno, Ill.

Respectfully,

WM. CURRIE,
Captain and Assistant Quartermaster.

By order of Col. Wm. Myers, Chief Quartermaster, Department of Missouri.

Upon the presentation of this order to the officers of the railroad company, they refused to furnish transportation for said corn, for the reason that said order implied that the corn was the private property of Mr. Adams until it was delivered at Cairo, and they had orders from General Allen, through Colonel Myers, not to ship anything to Cairo except upon the orders of Colonel Myers directing shipment.

Finding that he could not obtain transportation for the corn, Mr. Adams went to St. Louis and reported the facts to Colonel Myers and Captain Currie.

They then entered into a new agreement whereby Captain Currie, by order of Colonel Myers, made an actual purchase of the corn, to be delivered on board the cars at Manteno, at $1.30 per bushel.

The following order was then sent to the superintendent of the said railroad, to wit:

ASSISTANT QUARTERMASTER'S OFFICE, FORAGE DEPARTMENT,
St. Louis, Mo., April 15, 1865.

MR. WM. R. ARTHUR,
Superintendent Illinois Central Railroad, Chicago, Ill.

SIR: I have purchased of C. H. Adams, at Manteno, Ill., for the use of the United States Government, 18,000 bushels of corn, which I wish you to deliver at Cairo, Ill., as soon as possible.

Please furnish transportation at once, and oblige

Your obedient servant,

WM. CURRIE,
Captain and Assistant Quartermaster.

By order Col. Wm. Myers, Chief Quartermaster, Department of Missouri.
Approved for transportation,

WM. MYERS,
Colonel and Quartermaster.

The corn was then duly inspected by Thomas Porter, grain inspector for the Chicago Board of Trade, and found to be "good, sound, merchantable" corn, "better than the average;" and thereupon it was duly delivered by said Adams to the freight agent of said road, on board of the cars at Manteno, as follows:

April 22, 1865, 13 car loads, 2,203 sacks, 264,065 pounds.

April 24, 1865, 7 car loads, 1,149 sacks, 140,125 pounds.

April 25, 1865, 10 car loads, 1,700 sacks, 201,985 pounds.

Between April 25 and 29, 1865, 17 car loads, 2,929 sacks, 341,457 pounds.

Amounting in all to 18,002 bushels and 20 pounds.

The evidence is positive that all of the corn was in good condition and sound when delivered to the railroad agents at Manteno; that they shipped it as Government property, and not as belonging to the claimant after he delivered it to them; that it was shipped at once to Cairo as Government freight; and the United States paid the freight bills.

The agents of the railroad, who were, at that time, also the agents of the Government, acting under the orders, and in the control of the quartermasters department, received the corn at Manteno as Government property, and shipped it from there to Cairo, consigned to the quartermaster there, on the dates hereinbefore named. According to the testimony of Robert Forsythe, the general freight agent of the railroad, each lot shipped arrived at Cairo in from 2 to 2½ days from the dates of shipment. The first lot must have arrived at Cairo on April 24, the second on April 26, the third on April 27, and the balance between the 27th and 31st of April.

Upon the arrival of these various lots of corn, the cars were switched off on the side-tracks, unloaded, and the corn became exposed to the inclemency of the weather, which had turned warm and rainy. It does not appear that any inspection was made at Cairo until May 17, when Inpector Porter, as he testified, again inspected it, finding part of it in the Government warehouse, and the balance in the cars on the side-tracks. He states he found some of it in good condition, but rapidly spoiling, and could then be saved by opening out and exposing it to the air.

But Captain Flanigan neglected to take any steps to protect the corn, yet kept possession of it.

The corn remained partly stored in the Government warehouse and

partly elsewhere, until about the middle of June following, when Captain Currie, by order of General Allen, resh ipped about 6,000 bushels of the corn to St. Louis as Government freight, consigned to Captain Currie. About 1,600 bushels of this lot were used in feeding Government animals and the rest became worthless.

In the latter part of June, 1865, Captain Currie offered to pay Adams for 1,600 bushels, said to have been used, upon the condition that he would release all claim upon the Government for the balance of the corn purchased. This proposition was refused by Adams, and thereupon all payment was refused.

From the time Adams delivered the corn at Manteno he never had any control over it. From that date on it was solely in the possession and under the control of the Government agents, and all the damage and loss occurred while thus possessed and controlled.

Finding that he could get no pay Adams brought suit in the Court of Claims for the entire 18,000 bushels delivered at Manteno, claiming that purchase, inspection, and delivery at Manteno was a completed contract, and that he was entitled to pay for the full amount there delivered.

The testimony in his behalf was substantially as hereinbefore stated.

For the defense Captain Currie testified that his order of April 15, 1865, to the railroad company was for the purpose of obtaining transportation and that it expressly stipulated that the corn was to be subject to weight and inspection at Cairo; that he never purchased any forage except upon weight and inspection, at place of delivery; that a portion of the corn was shipped to him, at St. Louis, of which he used about 1,600 bushels; that it was shipped there on a Memphis packet, but he did not know who paid the freight, nor whether or not it was shipped as Government freight; that he may have ordered it shipped to St. Louis as Government corn; that the Quartermasters' Department sometimes allowed parties to put in grain at contract prices when there was a demand for more than they had contracted for, and if there had been no such demand at the time, the order would not have been given; that he also purchased forage from others than Adams during the months of April, May, and June 1865, without advertising, but at the contract prices for said months.

Captain Flanigan testified that all corn received at Cairo, was inspected under his supervision, by a civilian named James Garvey; that some time in April, 1865, he was informed by Colonel Myers that he had authorized Colonel Adams to deliver about 20,000 bushels of corn at Cairo, and to give Colonel Adams all the facilities he could; that upon his request Adams sent him the numbers of the cars, which he gave to his inspector with instructions to have them inspected immediately after arrival; the inspector rejected part of the corn; the cars were then shoved down on the side tracks, and nothing further was done with the corn; the corn was inspected "I might say within a day or two" after its arrival there; that his instrustions were to inspect all corn purchased in that part of the country, and that all such purchases were subject to inspection at Cairo; that he had no different order in regard to this corn; that he afterwards, by order of Colonel Myers, shipped part of the corn to St. Louis, which, he thought, was to save Colonel Adams as much as possible from loss; that he did not know who paid the freight to St. Louis; that he did not remember when the cars and corn arrived at Cairo; that "it is possible that cars about that time may have remained several days without being inspected,

but if so, it was because the railroad company failed to give him the number; that it was only a few days after the corn had been rejected that Adams called on him.

Upon the trial of the case the majority of the Court of Claims (7 C. C. Reports, 437) held as follows:

DRAKE, Ch. J., delivers the opinion of the court:

Upon the foregoing facts the court announces the conclusion t law to be that the claimant is entitled to recover for no more than the 1,600 bush ls of corn used in St. Louis.

The contract under which the 18,000 bushels were shipped from Manteno to Cairo was a parol contract between an assistant quartermaster and the claimant, entered into without previous advertisement, without any exigency declared by the commanding officer of the Army or detachment with which the assistant quartermaster was connected, and without any authority from such commanding officer, and was not reduced to writing and signed by the parties as the law requires. Such a contract is void, as has been repeatedly held by this court.

But we have also repeatedly held, he who delivers supplies to the Government under an executory contract, which, as such, is void, is entitled to pay for so much of the supplies as the Government receives and uses.

It is, therefore, the judgment of the court that the claimant recover for the said 1,600 bushels of corn at $1.30 per bushel, making in the aggregate $2,080.

NOTT, J., dissenting:

There had been a contract between the parties, which broke down because the claimant was unable to perform. The reason of his inability was that the Illinois Central Railroad, which the defendants controlled, would not at the time carry private freight. The claimant went to the contracting quartermaster and told him, whereupon they made a new contract, which is the contract in suit.

This new contract stands expressed partly in the words of a witness, and partly in a written order from the quartermaster to the defendants' transportation agent, the Illinois Central Railroad. The words of the witness, that is to say, the conversation of the parties, did not, of themselves, make a contract, but the deficiency was filled by the written order, which was a part of the transaction, and was given to the claimant with the intent that he should act upon it, and with regard to which both parties did act.

This contract, in part consisting of conversation and in part reduced to writing, was for the sale and delivery of 18,000 bushels of corn at Manteno, Ill., subject, nevertheless, to weight and inspection by the receiving officer of the quartermaster department, on arrival at Cairo. "I have purchased of C. H. Adams" are the words of the written order, "at Manteno, Ill., for the use of the United States Government, 18,000 bushels of corn, which I wish you to deliver at Cairo."

The claimant acted on its terms and delivered the corn at Manteno; the Illinois Central Railroad acted on its terms and received the freight; the defendants acted on its terms and paid the railroad company for the transportation. The written order was not addressed to the contractor, but was delivered to him with the intent that he should act upon it, and he did so act. It being a part of the transaction, was a part of the agreement.

The facts as they are found in this case are not ultimate facts in the nature of a special verdict to which a court can apply the law, but circumstantial evidence from which a jury must deduce ultimate facts. As I deduce them they are these:

(1) The corn was delivered at Manteno under and in pursuance of the written order, and was in good sound merchantable condition.

(2) The railroad company received and accepted the corn under and in pursuance of the written order, and transported it to Cairo, and the contractor exercised no care or control over it after its delivery at Manteno.

(3) The corn was spoiled while *in transitu*, but chiefly after its arrival at Cairo, and the cause of the loss was the excessive heat of the weather, coupled with the fact that the corn was left on board of the cars, which, amid the circumstances, constituted an exposed and dangerous situation.

(4) The corn might have been saved if it had been promptly and properly cared for on its arrival at Cairo, but the defendants' receiving officer there took no steps toward saving it, nor did he notify the contractor of its exposed condition.

From these facts I draw the following conclusions of law:

The defendants were entitled to have the corn weighed and inspected by the receiving quartermaster at Cairo, and if it did not pass his inspection to throw it back upon the claimant; but, while it was in their custody and under their control, they were bound to exercise over it ordinary care; and they were also bound to have it promptly

inspected, and, if rejected, to return it to the claimant at Manteno, or at least to immediately notify him of its rejection. Having failed in all of these obligations, they thereby become responsible for its loss; and the claimant should recover the contract price, being also the *quantum valebat* of the entire amount by him delivered, to wit, 18,000 bushels, at $1.30 per bushel, amounting to $23,400.

This bill directs the payment of $21,320 to the claimant as balance due him on the 18,000 bushels of corn delivered to the railroad agents at Manteno, Ill., under the purchase made on April 15, 1865.

The merits of the claim depend chiefly upon the construction to be placed upon the order of April 15, 1865; and whether or not its terms and attendant circumstances imply a completed purchase of the corn at Manteno, and whether or not the railroad company was at the time of the receipt of the corn at Manteno the agent of the Government.

Captain Currie testified that the corn was purchased subject to delivery and inspection at Cairo. While his order of March 28 did require that, he failed to explain the difference in the language of that and his order of April 15, or why in the latter order, if he did not regard the corn as Government property, he found it necessary to obtain the formal approval of his superior officer, Colonel Myers, for the transportation?

The evidence of the claimant is clear and specific in stating that the sale was made subject to delivery on the cars at Manteno alone. He is supported in his statements by the evidence of Robert Forsythe, the general freight agent of the railroad, who stated that the moment it was received on the cars at Manteno, he considered it Government property, under said order, and looked to the Government for the freight, and that Captain Currie had informed him in St. Louis, before the shipment, that he had made the purchase to be delivered at Manteno, and the freight was to be paid by the Government, and that the Government did pay the freight.

This evidence is supported by that of William R. Arthur, the superintendent of the railroad, and John Remmer, the secretary of the president of said road.

Thomas H. Seymour testified that on June 21, 1865, Captain Currie told him, in the presence of other parties he named, that he had purchased the corn subject to delivery on board the cars at Manteno.

The evidence for the claimant further shows that from 17 to 25 days elapsed between the time of shipment of the corn and its examination at Cairo by the Government officers there.

Your committee is of the opinion that the Court of Claims misconceived the real intent of the act of July 4, 1864, and the official capacity in which Captain Currie was acting. He was not on duty as an assistant quartermaster in the field, attached to any Army or detachment, but constituted a part of the quartermaster's purchasing staff of the Army, having under his immediate charge the purchase of forage for the Department of Missouri, and to supply the supply depot at Cairo, and, therefore, he was not restricted by the rules of law governing quartermasters attached to armies or detachments in the field.

The evidence satisfies your committee that the transaction was an actual completed purchase and sale upon the inspection and delivery of the corn at Manteno; that said inspection was made as required by the act of 1861, and delivery was made to the railroad company there; that said railroad company was then operated and was under the control of the military authorities, and as such its agents were the agents of the Government; that from the date of the delivery of the corn by the claimant *at Manteno he never had* any supervision or control over

the corn; that whatever damage occurred took place while the corn was in the possession of the Government authorities, and that he acted in good faith throughout the entire transaction and should be paid the balance due.

In consideration of all the facts, your committee is of the opinion that this is a just and meritorious claim, and therefore recommends the passage of the bill after amending by striking out the word "Mattoon" in the ninth line and inserting the word "Manteno."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 350.

SURVIVING PARTNERS OF J. & O. P. COBB & CO., AND OTHERS.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 91.]

The Committee on War Claims, to whom was referred the bills (H. R. 1372 and H. R. 1401) for the relief of the surviving partners of J. & O. P. Cobb & Co., Oliver P. Cobb, John Christy & Co., Cobb, Blasddell & Co., and I. & O. P. Cobb & Co., have had the same under consideration and report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and report herewith a resolution to that effect and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 351.

O. P. COBB AND OTHERS.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1376.]

The Committee on War Claims, to whom was referred House bill 1376, have considered the same and report the bill with amendment as follows:

Strike out all after the word "allowed," at the end of the eighth line, and insert the following: "such sum as the Court of Claims may find upon a full hearing of the evidence adduced in support of said claim to be due to said claimants, and report to Congress."

Your committee recommend the passage of the bill as amended.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 352.

WILLIAM SMITH AND OTHERS.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ROCKWELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 5597.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5597) for the relief of William Smith and others, have examined the same and report:

The facts upon which the cases covered by this bill are based are fully set forth in the following letter from the Secretary of War to the chairman of the Committee on Military Affairs:

WAR DEPARTMENT, *Washington, May* 1, 1890.

SIR: I have the honor to return herewith Senate bill 3054, for the relief of Lieut. Col. William Smith, deputy paymaster-general, and others, referred to this Department for remarks and expression of views, and to state as follows:

The charges against Lieutenant-Colonel Smith are made up of the following items, disallowed by the Second Comptroller of the Treasury in the settlement of Colonel Smith's accounts:

Voucher 120. April, 1879. Payment to Lieut. C. W. Carrow, Seventh Cavalry, for April, 1879	$125.00
Voucher 57. May, 1881. Payment to W. E. Hagen, expert witness in the case of Cadet Whittaker	1,550.00
Voucher 52. May, 1881. Payment to D. T. Ames, expert witness in same case	936.00
Voucher 70. July, 1881. Payment to E. A. Cochrane, stenographic reporter in same case	404.15

These disbursements having been disallowed by the Second Comptroller on the ground that the rates per diem were higher than authorized by the Army Regulations, that officer requested the Secretary of War to order a stoppage to be made against the pay of Colonel Smith, but as the disbursements in question had been made in accordance with the regulations for the government of the Army, or in compliance with the specific instructions of the Secretary of War, the desired action was not taken, and the payments enumerated were submitted to the Court of Claims for an opinion. In the case of Lieutenant Carrow, who obtained pay from three paymasters for the month of April, 1879, while absent without leave, the court held that Paymaster Smith was the proper officer to pay Carrow; that the voucher upon which he was paid was in proper form; that the paymaster had not been notified of Carrow's unauthorized absence, or of any other disability as to pay; that paragraph 1006, Army Regulations of 1863, was a valid regulation, and that, under that regulation Paymaster Smith was fully protected in his payment to Carrow. (23 C. Cls., 452.)

In the matter of the payments made to the expert witnesses and the stenographic reporter in the Whittaker case, the court held that the employment of experts was a matter within the legal and proper discretion of the Secretary of War, and that his order to employ and pay them is official authority to the officer who in the ordinary discharge of his duty makes the payment, and that the Secretary had authority to order or sanction the employment of a stenographer at an agreed rate of compensation, and that regulations prescribed by the Secretary of War for the government of the Army *do not bind the Commander-in-Chief*, nor the head of the War Department. *(24 C. Cls. R., 209.)*

The charge of $5,461.61 against Maj. W. F. Tucker are made up of payments to expert witnesses in the Whittaker case, and to the stenographic reporter in the trial of Judge-Advocate-General Swaim. These payments were of precisely the same character as those made by Paymaster Smith, and were disallowed by the Second Comptroller upon the same grounds, and are fully covered by the conclusions of law reached by the Court of Claims above set forth.

The charge of $2,185.92 against Maj. John S. Billings, surgeon, U. S. Army, is for the recovery of that sum paid to him by the Pay Department for mileage for certain journeys made by him in obedience to orders of the Secretary of War. The payment of this sum having been disallowed by the Second Comptroller, the matter was transmitted to the Court of Claims. The court held that the War Department had authority to order Major Billings to make the journeys in question at the expense of the Government; that it was a military service which a surgeon could be required to render; and that the orders were legal and could not be controverted by any other executive branch of the Government. (23 C. Cls. R., 167.)

The charge of $1,029.60 against Capt. G. M. Wheeler is for the recovery of that sum paid to him for mileage, and disallowed by the Second Comptroller. The case is analagous to that of Surgeon Billings and involves the same questions of law. It was transmitted to the Court of Claims and the court referred to the opinion in the Billings case, which it reaffirmed and adopted in this case.

The charge against Lieut. P. H. Ray, Eighth Infantry, of $634.42, is for the recovery of that sum paid to him as mileage, and disallowed by the Second Comptroller. The mileage was for journeys made under the orders of the Secretary of War.

The history of the stoppage against Capt. J. O. Skinner, assistant surgeon, of $199.14, is as follows: May 15, 1885, the post surgeon at Fort Myer, Va., made a requisition for medical supplies for the post hospital, including, among other things, six "Demorest's water-closet porcelain hoppers (movable), with other articles pertaining thereto." The requisition was duly approved, proposals invited, and the articles purchased, the vouchers being duly certified and approved and forwarded to the accounting officers of the Treasury for payment from the appropriation "Signal Service, Medical Department" for the year ending June 30, 1885. The vouchers were disallowed by the accounting officers on the ground that the water-closet hoppers were *fastened to the ground.* After numerous appeals from the contractors who had furnished the supplies, the Secretary of War, in view of the fact that the terms of the act expressly authorized him to expend the appropriation cited above, directed that the sum of $500 from that appropriation be placed to the credit of the disbursing officer of the Medical Department in Washington, and gave orders that the vouchers be paid by Asst. Surg. J. O. Skinner, acting medical store-keeper. In pursuance of this express order the vouchers were paid by Captain Skinner, February 8, 1886.

Notwithstanding the rulings of the Court of Claims the then Second Comptroller declined to remove the charges covered by this communication, and the present Second Comptroller decides that he is without power to re-open cases finally passed upon and closed by his predecessor.

All the payments herein referred to were made in good faith from appropriations pertaining to the disbursements, upon proper vouchers, and in obedience to law and orders; and the enactment of the bill of relief would be an act of justice. It requires no appropriation.

Very respectfully,

REDFIELD PROCTOR,
Secretary of War.

Hon. J. R. HAWLEY,
Chairman Committee on Military Affairs, United States Senate.

The two decisions of the Court of Claims, hereunto annexed, fully established the merit of this application.

After these decisions were delivered by the Court of Claims a request was made of the Second Comptroller to re-open the matter upon the basis of those decisions, but that official declined to do so, upon the ground that the subject was one which was closed in his office, and was not subject to re-adjudication there, as will appear from the annexed letter.

Upon the facts and conclusions thus presented your committee recommend the passage of the bill.

[Court of Claims. Departmental Case No. 23. Decided Febr ary 18, 1889.]

In the matter of Maj. William Smith, paymaster, U. S. Army.

This matter was transmitted to this court by the Secretary of War on the 25th of October, 1887, under the act 3d March, 1883.

Maj. Asa Bird Gardiner, assistant judge-advocate-general, appeared to present the questions involved, and Heber J. May, esq. (with whom was Assistant Attorney-General Howard), appeared for the defense of and on behalf of the United States.

The case having been brought to a hearing on the 3d April, 1888, the court upon the evidence finds the facts to be as follows:

FINDINGS OF FACT.

I.

On December 31, 1880, the President of the United States, in Special Orders No. 278, extract 6, of that date, promulgated from Army Headquarters, Adjutant-General's Office, Washington, convened a general court-martial in the city of New York for the trial of Cadet Johnson C. Whittaker, U. S. Military Academy. Some of the members of the court were under the military necessity of speedily rejoining their proper stations, and, under an intimation to proceed as rapidly as justice would admit, the court (the prisoner, through his counsel, assenting) was authorized by the President of the United States "to sit without regard to hours." The court was accordingly, not restricted to the limitation of hours of session imposed by the ninety-fourth Article of War, and was enabled to hear a great deal more evidence in a day than would have been possible had it been restricted to ordinary sessions.

II.

The judge-advocate of the court appointed as stenographer of the court one Albert E. Cochran, who acted as such, and the employment was authorized and approved by the Secretary of War, at the same rate of compensation as was allowed to stenographic reporters by courts of the United States in the city of New York. The stenographer was accordingly paid at that rate by Maj. William Smith, a paymaster in the Army, in the ordinary course of his official duty. The payment by Major Smith was, nevertheless, disallowed by the Second Comptroller of the Treasury, under the apparent misapprehension that the trial of Cadet Whittaker took place at West Point, which is situated within the second judicial district of the State of New York, and upon the ground that the compensation of the stenographer exceeded the rate allowed to stenographers by the courts in that district; and the Second Comptroller also reported the disallowance to the Pay master-General of the Army, in order that he should cause the excess of such payment to be stopped from the pay of Major Smith.

III.

At the same trial of Cadet Whittaker it became necessary to determine as a matter of evidence whether certain written matter was in the handwriting of the prisoner, and whether certain wounds upon his person were inflicted by himself. Accordingly, both the prosecution and the defense employed experts as witnesses; and the employment of such experts on the part of the prosecution was authorized by the Secretary of War. The judge-advocate of the court accordingly employed, at agreed rates of compensation, Dr. William E. Hagan and Daniel T. Ames, who rendered service in pursuance of their agreements, both in assisting in the preparation of the case and in testifying as experts.

The accounts for their services were made out in pursuance of the agreements with them, respectively, and at the stipulated rates of compensation, and were approved and ordered to be paid by the Secretary of War, and were paid by Maj. William Smith, a paymaster in the Army, in the ordinary course of his duty. The payment by Major Smith, nevertheless, was disallowed by the Second Comptroller of the Treasury, upon the ground that the compensation was in excess of that fixed by the Army Regulations as the compensation to be paid to civilian witnesses, and because no appropriation had been made by Congress for the employment of experts; and the Second Comptroller reported the disallowance to the Paymaster-General of the Army in order that the excess of such payments should be stopped from the pay of Major Smith.

IV.

Major Smith appealed to the Secretary of War, who, without having ordered the stoppages of pay requested by the Second Comptroller, transmitted the foregoing matters to this court, under the act of March 3, 1883 (22 Stat. L., 485, sec. 2), and has requested the opinion of the court upon the following questions:

"*1st. Had the Secretary of War authority to* arrange for the compensation of the

(stenographic) reporter at usual current rates at the place where the court sat and order the payment therefor?

"2d. Had the Secretary of War authority to authorize the employment of material and necessary witnesses who are not within reach of the process of the court at agreed rates of compensation and direct their payment?"

CONCLUSIONS OF LAW.

And upon the foregoing findings of fact the court certifies the following as its conclusions of law:

1. The Secretary of War has authority to order or sanction the employment of a stenographer to assist in a trial before a court-martial whenever in his judgment such employment is necessary for the prompt and efficient administration of justice or to facilitate and aid the proceedings of the court; and the established compensation allowed to stenographers for like services in the place where the trial is held constitutes a proper and legal rule for estimating or determining the compensation of a stenographer so employed, and a paymaster making a payment in pursuance of an order of the Secretary of War to a stenographer so employed is not liable to have his pay stopped under the Revised Statutes, section 1766, or the Army Regulations, 1881, paragraph 2445.

2. The Secretary of War has authority to order or sanction the employment of medical and other experts to assist the judge-advocate in a trial before a court-martial, and to testify therein in cases where the employment of similar experts is customary in civil courts; and he has authority to determine the rate of compensation at which the judge-advocate may employ them; and in the employment of experts he is not limited to the rate of compensation prescribed by the Army Regulations (pars. 1427, 1428, 1435) for civilian witnesses who can be compelled to testify as to matters within their ordinary knowledge and observation; and a paymaster making a payment in pursuance of an order of the Secretary of War to an expert so employed is not liable to have his pay stopped under the Revised Statutes, section 1766, or the Army Regulations, 1881, paragraph 2445.

OPINION.

NOTT, J., delivered the opinion of the court:

The statutes of the United States prescribe a number of remedies whereby debts due to the Government by its own officers, agents, or creditors can be summarily collected or secured; but, inasmuch as the payments made by military officers are frequently made under orders which they can not disobey, or amid circumstances in which the public welfare does not admit of investigation or delay, a stoppage of their pay can not be compelled by the accounting officers of the Treasury, but only by their official head, the Secretary of War. (Army Regulations, 1881, par. 2445.)

It is manifest that Congress never intended that a Secretary of War should order a paymaster or quartermaster to make a payment and then, upon the requisition of the accounting officers of the Treasury, punish the officer for having made it by stopping his pay. The power given to the Secretary is a reasonable one and it is to be reasonably exercised, and that it may be it is placed entirely within his discretion. That discretion requires that, while the power of summarily stopping an officer's pay may be asserted against a delinquent officer or against one who, without being delinquent, has acted upon his own responsibility, it is not to be asserted against one who has acted in obedience to orders, and whose act was really the act of his military superior, which he was bound to obey, and as to which he is expressly relieved from personal liability. (Army Regulations, 1881, paragraph 1653.)

Such an abuse of the power would not tend to preserve, but to subvert, military order and discipline. The refusal of the Secretary of War to stop an officer's pay is not a decision upon the merits; it will not bind the Government, nor preclude the Comptroller from causing a suit to be brought against the officer; it merely determines that the officer is so far without fault that the harsh and summary remedy of stopping his pay should not be resorted to.

The ground upon which the Second Comptroller refused to allow the item for the payment of experts was that the Army Regulations prescribe a less rate of compensation for civilian witnesses.

The regulations referred to are the regulations of an Executive Department ratified by statute, and having the force of law. (Acts 28th July, 1866; 23d June, 1879, 14 Stat. L., 337, § 37, 2d ed. p. 30, § 2.) But regulations which were prescribed and framed by the Secretary of War and which are intended for the direction and government of the officers of the Army and agents of the Department do not bind the Commander-in-Chief nor the head of the War Department (Burns's Case 12 Wallace R., 246). The Second Comptroller therefore could not properly rely upon the Army *Regulations as authority* for refusing to pay an expenditure ordered by the Secretary *of War.*

What are termed experts are not necessarily or properly witnesses. Their office may be simply to aid in the preparation of a case without being called to testify, and they are frequently employed to aid counsel in the cross-examination of witnesses. In the complexities of modern civilization they are constantly resorted to in all courts, civil and criminal; and it would be preposterous to say that a single department of the Government is the only litigant that can not have the benefit of their services, or that in a trial of this nature the Government can not be assisted by experts, when the defendant can.

All persons in the course of ordinary life are liable to witness the transactions, or casualties, or crimes of their fellow men. In such cases, public necessity requires that they may be compelled to testify either with the incommensurate remuneration which the law allows, or with none at all.

The burden of doing so must be borne by him on whom it falls, and the chance which casts the often unpleasant, or painful, or prolonged duty of attending court and being subjected to the examination of counsel, is a chance which may fall upon any member of the community. A surgeon walking down the street and witnessing an accident or murder may describe the injuries of the victim more clearly than an ordinary beholder. But he is not an expert; he is merely the fortuitous witness of an occurrence, concerning which he may be made to testify. The laws which regulate fees of witnesses refer to such persons—to those who can be compelled involuntarily to testify. But the expert is one who does not testify as to occurrences which he has casually beheld; but as to his own self-acquired knowledge. There is no principle of law which allows a suitor to acquire the benefit of another man's knowledge or skill through the stratagem of calling him as a witness. And the Government in this is not above other litigants. If it would acquire the services, skill, or knowledge of an expert, it must be with his consent. The Secretary of War therefore was justified in entering into an agreement with these experts, and in determining by contract the rate of their compensation.

Whether an appropriation existed out of which these experts could properly have been paid is another and distinct question. It is quite possible that a service can be required and a contract entered into though no appropriation exists to pay the debt so incurred. An act of the Commander-in-Chief of the Army or of the head of the War Department is not *ultra vires* because Congress have not foreseen a contingency and placed a fund at the disposition of the Executive. Congress can not foresee every necessary item of expenditure, and the employment of experts in military trials is of such rare occurrence that Congress might well omit to incumber the appropriation acts with an item which in the ordinary course of things will not be needed. Upon the question whether an appropriation existed in the year 1881, out of which Major Smith might properly have paid these experts, the court expresses no opinion. It is sufficient for the present proceeding to say that in the opinion of the court the employment of experts in a trial before a court-martial is a matter within the legal and proper discretion of the Secretary of War; and that his order to employ them and pay them is official authority to the officer who in the ordinary discharge of his duty makes the payment, and protects him from the summary remedy authorized by the Revised Statutes and Army Regulations.

The order of the court is that the findings of fact and conclusions of law now filed in this matter, together with the opinion of the court, be certified to the Secretary of War for his guidance and action.

[Court of Claims. Departmental No. 30.]

In the matter of the payment of salary to Lieut. Charles W. Carrow, by Major William Smith, paymaster, of the Army.

The matter in the above-entitled case was transmitted to the court by the Secretary of War on the 25th day of October, 1887, by the following letter:

WAR DEPARTMENT,
Washington City, October 25, 1887.

To the honorable the Chief Justice and Judges of the Court of Claims:

The undersigned, Secretary of the Department of War, respectfully represents that a matter is now pending in said Department involving a controverted question of law, to wit: Whether paragraph 1006 of the Army Regulations of 1863, repeated in paragraph 1652 of the revised Army Regulations of 1881, is a valid and lawful regulation having the *force of law to the extent of* protecting the paymaster who makes a payment *in accordance therewith, or independently* of that regulation whether he is

protected in case of payments made in good faith under the circumstances therein set forth from the consequences of an error of fact in the certificate of a commissioned officer, on whose certificate the payment may be made, the particular case in question being the payment by Maj. William Smith, paymaster U. S. Army, to Second Lieut. Charles M. Carrow, Seventh Cavalry, on April 30, 1879, of pay of $125 for said month as said second lieutenant.

As the finding and opinion of your honorable court are necessary for the guidance and action of this Department in a like class of cases, the vouchers, papers, proofs, and documents pertaining thereto are herewith transmitted for such procedure as you may take under section 2 of the act of Congress, approved March 3, 1883, commonly known as the Bowman Act.

Major Smith has been duly informed of this reference, but has no desire to be represented by counsel.

WILLIAM C. ENDICOTT,
Secretary of War.

Asa Bird Gardiner, esq., appeared to present the questions involved in the case, and the Attorney-General, by Heber J. May, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing on the 3d day of April, 1888, the court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I.

Second Lieut. Charles M. Carrow, Seventh Cavalry, was serving with his troops at Fort A. Lincoln, Dakota Territory, on February 4, 1879, and left that post for Saint Paul, Minn., on that day on detached service, and on February 7, 1879, availed himself of a sick-leave for one month.

II.

There is no record of any authority for his absence after expiration of sick-leave, nor any certificate from him of inability to travel from that time until he committed suicide at St. Louis, Mo., May 19, 1879.

The post returns of Fort A. Lincoln for March 31 and April 30, 1879, to the Adjutant-General at Washington, reported him "absent without leave since March 7, 1879." No other notice was given of his absence, and no action was taken thereon.

III.

April 30, 1879, Lieutenant Carrow, by regular voucher, in duplicate, made out and signed in accordance with the regulations and instructions of the War Department, and presented in the ordinary and usual manner, obtained from said Maj. William Smith, paymaster U. S. Army, at St. Paul, Minn., $125, being the amount of compensation allowed by law for one month's salary.

Major Smith was the proper paymaster in that military department to make payments to officers of the Seventh Cavalry stationed at Fort A. Lincoln. He had not been informed and had no knowledge that Lieutenant Carrow was absent without leave during the month of April, nor was the name of Carrow on any "stoppage circular" issued under General Order No. 119, A. D. 1877, as it now appears in the edition of Army Regulations of 1881, par. 2446. He made the payment in good faith in the regular and usual course of business and of official duty, on the certificate of said Carrow that the amounts charged in the account were correct and just, as authorized by law, and that they were rightfully due him as stated. He proceeded in accordance with the practice of the Department, and as he paid other officers of the regiment at the same time.

Said Lieutenant Carrow at the same time and in the same manner obtained the same amount from each of the two other paymasters who had authority to make payments in that military department.

Upon the settlement of Paymaster Smith's accounts the sum of $125 so paid to said Carrow was disallowed by the Second Comptroller, and said Smith was charged therewith, on the ground that Lieutenant Carrow had forfeited his pay for the month of April by his absence without leave, under the provision of Revised Statutes, section 1265.

The Second Comptroller, some time in 1883 or 1884, communicated the fact to the Paymaster-General, who notified Major Smith and requested him to make his account good. Major Smith appealed to the Secretary of War, as prescribed by Regulations, *article 2445, edition of 1881,* and the Secretary without other action transmitted the *matter to this court.*

CONCLUSIONS OF LAW.

Upon the foregoing findings of fact, the court decides as conclusions of law that paragraph 1006, of the Army Regulations of 1863, repeated in paragraph 1652, of the Revised Army Regulations of 1881, is a valid and lawful regulation to the extent of protecting the paymasters who make a payment in accordance therewith, and by that paragraph, and independently of it, Paymaster Smith is not liable for the loss by payment to Lieutenant Carrow.

OPINION.

RICHARDSON, Ch. J., delivered the opinion of the court.

The Secretary of War, in his letter transmitting the matter involved in this case, states the questions upon which he desires the opinion of the court to be "whether paragraph 1006, of the Army Regulations of 1863, repeated in the Revised Army Regulations of 1881, is a valid and lawful regulation, having the force of law to the extent of protecting the paymaster who makes a payment in accordance therewith, or independently of that regulation, whether he is protected in case of payments made in good faith under the circumstances therein set forth from the consequences of an error of fact in the certificate of a commissioned officer, on whose certificate the payment may be made, the particular case in question being the payment by Maj. William Smith, paymaster U. S. Army, to Second Lieut. Charles M. Carrow, Seventh Cavalry, on April 30, 1879, of pay of $125 for said month."

We shall first consider the Army regulation in general.

The Constitution provides, in article 1, section 8, paragraph 14, that Congress shall have power "to make rules for the government and regulation of the land and naval forces."

It has been argued here and elsewhere that this provision deprives the President of authority to make such rules of his own motion, or even when previously authorized by legislative action, on the ground that the power is exclusive in Congress and can not be delegated; and so that all rules for the government and regulations of the land and naval forces made by the executive are void and of no effect without the enactment by Congress in the form of approval or otherwise.

Congress has established rules and articles for the government of the armies of the United States, commonly called "Articles of War" (act of 1806, April 10, ch. 20, 2 Stat. L., 359), now Revised Statutes, sec. 1342.

For the making of other and ordinary regulations Congress has from an early day proceeded upon the idea that the power might be delegated to the President, and has passed several acts expressly conferring such authority (act of March 3, 1813, ch. 52, sec. 5; 2 Stat. L., 819; act of April 24, 1816, ch. 69, sec. 9; 3 Stat. L., 298; act of July 15, 1870, ch. 294, sec. 20; 16 Stat. L., 319; act of March 1, 1875, ch. 115; Supplement to Rev. Stat., 149; and the act of June 23, 1879, ch. 35, sec. 2; Supplement to Rev. Stat., 494, under which the edition of 1881 was published).

Congress has three times recognized or approved existing regulations:

(1) The act of April 24, 1816, chapter 69, section 9 (3 Stat. L., 298), provided that "the regulations in force before the reduction of the Army be recognized, as far as the same shall be found applicable to the service, subject, however, to such alterations as the Secretary of War may adopt, with the approbation of the President."

(2) The Act of March 2, 1821, chapter 13, section 14 (3 Stat. L., 616), enacted "that the system of 'general regulations for the Army' compiled by Major-General Scott shall be, and the same is hereby, approved and adopted for the government of the Army of the United States and of the militia, when in the service of the United States." This section was unconditionally repealed by the Act of May 7, 1822, ch. 88 (3 Stat. L., 686). As to this act Attorney-General Wirt advised that, notwithstanding such repeal, the regulations having received the sanction of the President, continued in force by the authority of the President in all cases where they did not conflict with positive legislation (1 Opins., 549).

It is well settled that Army regulations, when directly approved by Congress, have the absolute force of law equally with other legislative acts until repealed by the same power. Congress so treated them when it passed the Act of June 8, 1872, ch. 348 (17 Stat. L., 337), providing that the fifth section of the Act of May 8, 1872 (17 Stat. L., 83), should not be held to repeal that part of paragraph 1030, of the Revised Army Regulations of 1863, with which it appeared to be in conflict, thus recognizing the regulations approved by Congress in that year as having the same force as Congressional enactments.

On the other hand, it is just as well settled that regulations not so approved have the force of law only when founded on the President's constitutional powers as Commander-in-Chief of the Army, or are "consistent with and supplementary to the statutes which have been enacted by Congress in reference to the Army" (Symonds' Case, 120 U. S. R., *46, affirming 21 C. Cls. R.*, 151; Reed's Case, 100 U. S. R., 22;

Smith *v.* Whitney, 116 *ib.*, 180; United States *v.* Whitney, 120 *ib.*, 47; Wayman *v.* Southard, 10 Wheaton, 43; United States *v.* Eliason, 16 Peters, 291; United States *v.* Freeman, 3 Howard, 556; Kurtz *v* Moffitt, 115 U. S. R., 503; United States *v.* Webster, 2 Ware, 66; United States *v.* Maurice, 2 Brock, 103; Ferren's Case, 3 Benedict, 447; Gates *v.* Fletcher, 1 Minn., 204; 1 Opins. Attys. Gen., 469, 547; 2 *ib.*, 225; 3 *ib.*, 85; 6 *ib.*, 10, 215, 365; 10 *ib.*, 415; 16 *ib.*, 38).

Whether a regulation the validity of which is drawn in question is within the constitutional power of the President to promulgate, or whether it has been approved by Congress, or whether it "is consistent with and supplementary to the statutes," are judicial questions not always free from difficulties of determination.

In the light of these views and the adjudicated cases we shall examine the existing regulations.

(3) The act of July 28, 1866, chapter 299, section 37 (14 Stat. L., 337, 338), required the Secretary of War to prepare a code of regulations for the government of the Army, and enacted "the existing regulations to remain in force until Congress shall have acted on said report." No such action has been taken.

The present regulations are contained in the edition of 1881, published under authority of the act of March 1, 1875, chapter 115 (Supplement to Rev. Stat., 149), which directs the President "to make and publish regulations for the government of the Army in accordance with existing laws," and under the act of June 23, 1879, chapter 35, section 2 (Supplement to Rev. Stat., 494), which further directs the President to "cause all the regulations of the Army and general orders now in force to be codified and published to the Army," and provides for the expenses of the work.

As promulgated in this edition they contain orders and regulations of four different classes intermingled. At the end of each the authority for it is specified by a note in brackets.

(1) General orders which he (the President) has a right to issue under his constitutional prerogative of "Commander-in-Chief of the Army and Navy of the United States" (Const., art. 2, sec. 2, par. 1).

(2) Departmental regulations, under Rev. Stat., sec. 161, authorizing the head of each Department to "prescribe regulations, not inconsistent with law, for the government of his Department, the conduct of its officers and clerks, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property appertaining thereto."

(3) Regulations not approved by Congress, but made by the President in the exercise of legislative authority conferred by the acts above cited.

(4) Regulations expressly approved by Congress.

As to the regulation involved in the present inquiry, now paragraph 1652 of the edition of 1881, we find that it first appeared in its present form in the edition of 1857, as paragraph 908. It was reproduced as paragraph 1006 in the published Regulations of 1863, which were in whole expressly approved by Congress by the act of July 28, 1866, ch. 299, sec. 37 (14 Stat. L., 337, 338). It is therefore "a valid and lawful regulation, having the force of law.

This answers the first inquiry of the Secretary of War.

The Secretary submits the case of Paymaster Smith in making payment to Lieutenant Carrow as the one to which he has special reference. We have found the facts in that case, and it only remains to apply the law.

Lieutenant Carrow, of the Seventh Cavalry, serving at Fort A. Lincoln, Dakota Territory, availed himself of sick leave of absence, which expired in March, 1879. He never returned to his post, but committed suicide at St. Louis, Mo., on the 19th of May following.

Major Smith was the proper paymaster in that military department to pay the Seventh Cavalry. Lieutenant Carrow's voucher, in duplicate, for his salary of $125 for the month of April, made out in the usual form, in accordance with instructions of the War Department, with his certificate attached that the amounts charged in the account were correct and just, as authorized by law, and that they were rightfully due him as stated, was presented in the regular and usual course of business, and paid in good faith by Paymaster Smith, who had no knowledge that any of the statements of fact therein contained were untrue. The returns from the fort to the Adjutant-General at Washington for March 31 and April 30 reported Lieutenent Carrow as "absent without leave," but Major Smith had not been notified of that fact and did not know it.

The payment was made on Carrow's voucher just as payment was made at the same time on the vouchers of many officers of the same regiment.

In our opinion Paymaster Smith is protected from loss by said paragraph 1006 of the Regulations of 1863, which is as follows:

"1006. If any account paid on the certificate of an officer to the facts is afterward disallowed for error of fact in the certificate, it shall pass to the credit of the disbursing officer and be charged to the officer who gave the certificate."

The case comes exactly within the terms of that regulation, and no fault on the part of Paymaster Smith appears to prevent its operation or to deprive him of its benefit.

As to the second questions ubmitted by the Secretary of War, we are of opinion that, independently of paragraph 1006 of the Regulations of 1863, Paymaster Smith is not chargeable with loss in this matter. Departmental orders provided how notice should be given to paymasters of the stoppage of officers' pay and what action should be taken thereon.

Those orders now appear in the Regulations of 1881, as follows:

"2446. The notice of stoppage of officers' pay will take the form of a monthly circular to paymasters, advising them of stoppages in force at its date. This circular will be submitted to the Secretary of War for his approval prior to publication. When an officer's name is borne upon this circular, no payment of salary will be made to him which is not in accordance with the stoppage entry in the case. Paymasters disregarding this requirement in any case will be held liable for the amount of the stoppage.

"2447. Overpayments to an officer are to be deducted on first payment after notice after stoppage, even if the pay accounts have been assigned. The assignee takes the account subject to all risks of stoppage. * * *"

These two regulations were not among those in the edition of 1863, approved by Congress, but they had been promulgated before Paymaster Smith paid Lieutenant Carrow, and were proper departmental regulations upon which paymasters had a right to rely in the absence of other direct information. They are founded upon the assumption that cases arise where overpayments may be made without fault of a paymaster. They provide how such overpayments shall be recovered back, not by charging them to the officer innocently making the payment, but by deducting them from the pay of the officers receiving the same on the first payment after notice of stoppage.

At the time of the payment by Paymaster Smith in this case, it was by no means certain that Lieutenant Carrow would be subjected to the forfeiture of his pay.

The section of the Revised Statutes under which the forfeiture is claimed is as follows:

"Section 1265. Officers * * * when absent without leave, they shall forfeit all pay during such absence, unless the absence is excused as unavoidable."

No action was taken on account of the absence of Lieutenant Carrow beyond the mere notice of the fact to the Adjutant-General in the monthly returns from the fort where his regiment was stationed.

Had he lived his absence might have been excused as unavoidable. Had the forfeiture been insisted upon, the overpayment might have been set off againt his future compensation under the regulations, or it might have been charged to his personal account and an action thereon maintained against him by the United States (Parker v. United States, 1 Pet., 292). The accidental circumstance of Carrow's sudden death before action taken upon his absence is no reason why Paymaster Smith should be charged with the loss.

There may be cases where an officer is prima facie or otherwise liable to stoppage of pay and yet the Secretary of War may not deem it advisable to have the stoppage enforced through notice to paymaster on the monthly circular.

The giving of such notice is a matter wholly within the discretion of the Secretary of War, if appeal be made to him (Billing's Case, 23 Ct. Cls.). Paymasters are not responsible if notice be omitted and they are misled by the action or non-action of superiors upon whom they have a right, under the regulation, to depend for information and instructions.

It matters not that other paymasters made payments to the same officers at the same time and for the same period of service claimed. If the Regulations of the Army and the instructions of the War Department were such that an officer could thus fraudulently draw his pay three times for the same service, the paymasters who acted in good faith on such authority were without responsibility for the loss. (Hartson's Case, 21 Ct. Cls., 455.)

The clerk will certify the foregoing findings of fact, conclusions of law, and opinion to the Secretary of War for his guidance and action.

TREASURY DEPARTMENT, SECOND COMPTROLLER'S OFFICE,
Washington, D. C., May 26, 1890.

MY DEAR GENERAL: Absence from the city on Saturday prevented me from answering your letter of that date until this morning.

In reply thereto I beg leave to say that, in the matter of the suspensions made against you by Comptroller Maynard for the payment of expert witnesses in the trial

of the case against Cadet J. C. Whittaker, in my opinion such suspensions should not have been made under the facts as disclosed by the record in said case.

Under the law, however, I could not grant your request to re-open the case so as to give you the credits which I thought were fairly due. In my judgment your case is a proper one for relief by Congressional action. I have no hesitation in saying that, after a very careful consideration of the opinion rendered by Comptroller Maynard in this case, I should never have reached the same conclusion.

Very truly yours,

B. F. GILKESON.

General WILLIAM SMITH,
Paymaster-General, U. S. Army.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 353.

HARLOW L. STREET.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ROCKWELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1162.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1162) for the relief of Harlow L. Street, have had the same under consideration and submit the following report:

A bill similar to this was reported favorably by the Committee on Military Affairs of the Senate in the Forty-sixth Congress by Gen. John A. Logan, and passed the Senate January 20, 1880, and was favorably reported by the Committee on Military Affairs of the House, but failed to be reached on the Calendar.

This is a bill which authorizes the restoration of Harlow L. Street, late first lieutenant, First Regiment United States Cavalry, to his former rank by the appointment by the President and confirmation by the Senate, and assign him to the first vacancy occurring of that grade in the cavalry arm of the service, with the promise that he shall receive no pay for the service, for the reason that Harlow L. Street was honorably mustered out of the service without his knowledge or consent, and without authority of the law. He enlisted in 1861 and served as a corporal, sergeant, commissary-sergeant, and first sergeant of the Second California Volunteer Cavalry Regiment, and in 1863 was commissioned a second lieutenant, and in 1865 first lieutenant, and afterward captain, in which capacity he served until May, 1866, when he was honorably mustered out of the volunteer service; and in the reorganization of the regular Army in 1867 he was named on the list of gallant and meritorious volunteer officers for a commission, and having passed the regular examination was commissioned by the President a second lieutenant of the First United States Regular Cavalry.

Lieut. Street served continuously with his regiment, was promoted for meritorious service to the rank of first lieutenant, and placed in command of Camp Bidwell, Cal., as an additional evidence of the high standing and confidence of his superior officers. On the 17th day of March, 1871, after eleven years of hard and honorable service, with the highest commendations of all the officers and men with whom he served, and after repeated promotions for meritorious services and gentlemanly conduct, he was officially notified that two months before that date he was honorably mustered out of the service by the General Order No. 1, Series of 1871, dated January 2, 1871.

The records of the War Department show that this order of the Adjutant-General, by which this young soldier was deprived of the com-

mission which he had earned by active field service that commenced with and continued through the great war of the rebellion and included a year's additional campaigning against hostile Indians in the Rocky Mountain region, was based on the following act of Congress:

And be it further enacted, That the general of the Army and commanding officers of the several military departments of the Army shall, as soon as practicable after the passage of this act, forward to the Secretary of War a list of officers serving in their respective commands deemed by them unfit for the proper discharge of their duties from any cause except injuries incurred or disease contracted in the line of their duty, setting forth specifically in each case the cause of such unfitness. The Secretary of War is hereby authorized and directed to constitute a board to consist of one major-general, one brigadier-general, and three colonels, three of said officers to be selected from among those appointed to the regular Army on account of distinguished services in the volunteer force during the late war; and on recommendation of such board, the President shall muster out of the service any of the said officers so reported with one year's pay; but such muster out shall not be ordered without allowing such officer a hearing before such board to show cause against it.

Such is a brief statement of the facts and the law on which Lieut. Street, after he had, by eleven years' continuous service in the saddle and camp, utterly unfitted himself for civil pursuits, earned an honorable muster out of the profession for which he had been selected by his brother volunteer soldiers. In the whole military career of this soldier there is no record of any censure from any of his superior officers, except this report of Lieut. Col. Crook, in whose department Street served but three months, and who never met Street in his life, but who made a statement to this board that Street had served for a short time in his department, but that his character for truthfulness and honesty was bad.

It will be observed that the statute above cited gives the President authority to muster any officer out of the military service of the United States on the following conditions:

(1) That the department commander of the officer has, in pursuance of this act, officially reported to the Secretary of War that such officer is unfit for the proper discharge of his duties.

(2) That such officer has been allowed an opportunity to defend himself against the report of the department commander before such board.

(3) That the report favoring such officer's muster out of the service has been approved by a board consisting of one major-general, one brigadier-general, and three colonels.

None of the above provisions authorizing the President to muster out of service certain officers under conditions provided for in the act were complied with.

Gen. Ord, in whose department Street was serving as a post commander at the time, prepared and forwarded to the War Department his report, which, by the above statute, is made absolutely necessary in order to initiate the proceedings before the board named in the law. Without such report and the approval of the officer commanding the department, the President had no power or authority of law to muster an officer out of the service for the cause assigned in this case.

On examination of the special list prepared by Gen. Ord of the officers in his department "deemed unfit for the proper discharge of their duties," the name of Lieut. Street does not appear, as shown by the records of the War Department. It is further shown by the records of the War Department that Lieut. Street was not only not given an opportunity to appear before this board, as the law provides, but he was entirely ignorant of any proceedings against him at Washington until *subsequent to* the date that this action was taken, and he had no

thought of any such action until he received the order announcing to the Army his summary discharge from the service.

On this state of facts the law did not authorize the transfer and muster out of this officer and the act of his muster out was illegal and void and it was so considered at the time by his superior officer, who served with him. As evidence of this fact your committee beg leave to herewith submit a statement from the lieutenant-colonel commanding the regiment to which Street belonged.

PALACE HOTEL,
San Francisco, April 15, 1879.

To all whom it may concern:

I certify that I was major in the First Cavalry when First Lieut. H. L. Street was mustered out of the service in General Orders No. 1, series of 1871, and that I know of no reason why he should have been mustered out of the service.

ELMER OTIS,
Lieutenant-Colonel Seventh Cavalry.

The late Secretary of War, Hon. George W. McCrary, made a thorough examination of the circumstances of the muster out of Lieut. Street, and so well satisfied was he that it was without authority of law, and that there was no reason why he should not be reinstated, that he recommended Street to the President for appointment as Second Lieutenant of Cavalry; and this appointment he would unquestionably have received but that he was over the age at which, under the regulations of the War Department, a citizen can receive a commission in the Army.

The record in the War Department, which is thorough and voluminous, corroborates these statements and propositions, and the case comes clearly within the rule established by the Committees on Military Affairs of the Senate and House of the Forty-fourth and Forty-fifth Congresses, in the case of Capt. John A. Darling (Senate Report No. 119, Forty-fifth Congress, second session; Senate Report No. 615, Forty-fourth Congress, second session), and which reports were approved by Congress by unanimous passage of the bill (H. R. 1254) for Capt. Darling's relief—a case almost precisely similar to this—and it is not necessary, therefore, to further discuss the legal principles involved, neither is there any doubt as to the justice and equity of this bill.

The following is an attested copy of a letter on file in the War Department:

WAR DEPARTMENT, *December 17, 1879.*

The Secretary of War has the honor to transmit to the House of Representatives for the Committee on Military Affairs, in response to the request of the chairman of said committee, a letter from the Adjutant-General of the Army dated the 15th instant and copies of the reports which led to the transfer of First Lieut. Harlow L. Street, First United States Cavalry, to the supernumerary list and muster out of service on the 1st of January, 1871, and of all papers that have been filed in behalf of his restoration or reappointment to the Army, together with his military record.

This case was considered by my predecessor, who last spring submitted the name of Mr. Street to the President with a view to his appointment as second lieutenant. He was not, however, nominated, owing to the fact that he was above the age prescribed by the Army regulations.

ALEX RAMSAY,
Secretary of War.

After a careful consideration your committee are of the opinion that Lieut. Street's case is an exceptionally meritorious one, and that he was improperly and illegally deprived of his commission. There can be no question or doubt that justice and equity demands that he be reinstated as a partial reparation for the injustice done him, and your committee therefore recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 354.

WILLIAM WELSH.

FEBRUARY 16, 1892.—Laid on the table and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 3397.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3397) for the relief of William Welsh, have examined the same and recommend that the bill do lie on the table.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 355.

HEIRS OF JOHN HOWARD PAYNE.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PAGE, of Rhode Island, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1187.]

The Committee on Claims, to whom was referred the bill (H. R. 1187) for the relief of the heir or heirs of John Howard Payne, have had the same under consideration and beg leave to report:

John Howard Payne was the consul of the United States at Tunis, and died at that place, whilst filling that position, on the 9th day of April, 1852. Shortly after his death, his accounts as consul were adjusted in the Treasury Department, and a balance of $205.92 was found to be due him, and is now standing to his credit on the books of the Register, but there is no appropriation out of which it can be paid. This amount has never been paid to any one, for the reason, so far as can be ascertained, that there was never any administration on his estate. The bill proposes to pay the same to his heir at law, who is one daughter, Mrs. Eloise E. Luquer, living in the State of New York.

Your committee recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 356.

GENDRON IRON WHEEL COMPANY, OF TOLEDO, OHIO.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PAGE, of Rhode Island, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 4103.]

The Committee on Claims to whom was referred the bill (H. R. 4103) for the relief of the Gendron Iron Wheel Company, of Toledo, Ohio, have had the same under consideration and beg leave to submit the following report:

It appears that the Gendron Iron Wheel Company, a manufacturing firm, doing business at Toledo, Ohio, paid upon an importation of steel tubes, at Toledo, Ohio, June 22, 1891, on the demand of the collector of customs at that port, $256.17 in excess of the duty to which the merchandise was liable under existing law.

It further appears that the said Gendron Iron Wheel Company paid the duty as assessed without protest under the belief that the classification of the merchandise made by the collector of customs was according to law.

A letter of the Acting Secretary of the Treasury on the subject is appended.

In view of the facts and circumstances of the case your committee recommend the passage of the bill.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 20, 1892.

SIR: Referring to the application of the Gendron Iron Wheel Company for refund of excessive duty paid upon an importation of four cases steel tubes made at the port of Toledo, Ohio, on June 22 last, I have to state that, although the collector at the time of entry made an erroneous classification of the merchandise, yet that the parties, without protest, paid the duty as assessed. It is admitted that the classification was wrong, and that the parties paid $256.17 in excess of the duty to which the merchandise was properly liable; but inasmuch as the law provides but one method of redress in such cases, which the importers neglected to avail themselves of, they have no recourse to this Department. They had the right to serve upon the collector "a notice of dissatisfaction," on receipt of which that officer would have referred the question to the Board of General Appraisers for adjudication.

A voluntary payment of duty, without protest, is final so far as this Department is concerned, in cases like the present, and the Department is unable, therefore, to grant any relief.

Respectfully yours,

O. L. SPAULDING,
Acting Secretary.

Hon. WILLIAM E. HAYNES,
Washington, D. C.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 357.

ALBERT KEACH.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PATTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 711.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 711) to remove the charge of desertion from the name of Albert Keach, beg leave to submit the following, with accompanying papers, which forms a part of this report:

Albert Keach was enrolled April 23, 1861, as a private in Company C, Fourth Wisconsin Volunteers, to serve three years, and served faithfully until August 1, 1862, at which time he is reported both as a deserter and a prisoner of war. He was paroled at Vicksburg, Miss., September 7, 1862.

Under the name of Charles Irving he enlisted while yet under parole March 12, 1863, in Company F, Sixteenth Wisconsin Volunteers, and served therein until October 29, 1863, when he was discharged for disability at St. Louis, Mo. He again enlisted under name of Charles Irving at Portland, Me., October 21, 1864, in Company H, Twentieth Maine Volunteers to serve one year and was mustered out of service with his company July 16, 1865.

In view of these facts the committee reports the bill back to the House with the recommendation that it do pass.

Case of Albert Keach, late of Company C, Fourth Wisconsin Volunteers.

RECORD AND PENSION DIVISION, *February 5, 1892.*

Albert Keach was enrolled April 23, 1861, at Sheboygan, Wis., as a private in Company C, Fourth Wisconsin Volunteers, to serve three years, and appears to have served faithfully until August 1, 1862, when he is reported to have deserted at Baton Rouge, La.

On the prisoner of war records he is reported as having been paroled at Vicksburg, Miss., September 7, 1862, but the date and place of his capture are not shown.

Under the name Charles Irving he enlisted March 12, 1863, as a private in Company I, Sixteenth Wisconsin Volunteers, in violation of the Twenty-second (now Fiftieth) Article of War, and served therein until October 29, 1863, when he was discharged for disability, at St. Louis, Mo.

The following is a synopsis of the testimony submitted with a view to a removal of the charge of desertion:

Under date of February 16, 1887, the soldier testified that while asleep in a boat opposite Baton Rouge, La., *on or about July 30, 1862,* he was captured by some Con-

federate soldiers and taken to Gen. Breckinridge's headquarters; that he was sent to Jackson, Miss., and after being paroled, was sent to Cairo, Ill., whence he went to his home where he remained until his enlistment in the Sixteenth Wisconsin Volunteers under the name of Charles Irving.

Under date of November 11, 1890, he testified that he was paroled at Vicksburg and then sent to Camp Chase, Ohio, where he remained for a long time, and that he finally went home for the purpose of enlisting in another company under another name, so as not to be recognized if again taken prisoner; that after he was discharged from Company I, Sixteenth Wisconsin Volunteers, wherein he had served under the name of Charles Irving, he again enlisted October 21, 1864, in Company H, Twentieth Maine Volunteers, and served to July 16, 1865, when he was honorably discharged under his assumed name.

It appears from the records that Charles Irving was enrolled at Portland, Me., October 21, 1864, as a private in Company H, Twentieth Maine Volunteers, to serve one year, and was mustered out of service with his company July 16, 1865.

On the 17th of November. 1890, the application for relief from the charge of desertion was denied, under the act of Congress approved March 2, 1889, because the period of his absence between the date of his desertion and the date of his enlistment in the Sixteenth Wisconsin Volunteers exceeded the period of four months.

The status of the case has not since been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon U. S. A.

The SECRETARY OF WAR.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 358.

JOHN L. RHEA, EXECUTOR OF SAMUEL RHEA, DECEASED.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3144.]

The Committee on War Claims, to whom was referred the bill (H. R. 3144) for the relief of John L. Rhea, executor of Samuel Rhea, deceased, and Joseph R. Anderson, submit the following report:

This measure was considered by this committee during the first session of the Fifty-first Congress, and was reported upon favorably (Report No. 99, which is appended as a part of this report).

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 99, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2991) for the relief of John L. Rhea, executor of Samuel Rhea, deceased, and Joseph R. Anderson, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto appended for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 4096, Fiftieth Congress, second session.]

The Committee on War Claims, to whom was referred the claims of John L. Rhea, executor of Samuel Rhea, deceased, and Joseph R. Anderson, report as follows:

The claim of Rhea is for part of the proceeds of 58 bales of cotton, seized in 1864 by the United States military authorities in the city of Atlanta, Ga., and turned over to the Treasury agents, and by them sold and the proceeds paid into the Treasury.

Early in the year 1862 the decedent, Samuel Rhea, sent $12,498.80 to J. A. Ansley, of Augusta, Ga., of which sum $5,010 belonged to his son-in-law, John H. Fain, to be invested in raw cotton, and the expenses attending the same to be paid by each in proportion to their respective shares. Ansley, it appears, invested the money sent him, as instructed, in the name of Rhea, and afterward, in the fall of 1862, shipped the cotton purchased in Rhea's name from Augusta, Ga., to Robert J. Lowery, a merchant in Atlanta, Ga. Lowery says:

"I had on storage in my house, to the credit of Samuel Rhea, 251 bales of cotton. I received it in the months of October and November, 1862. Twenty-five bales of this cotton was sold in November, 1863, to pay taxes, storage, etc.; burned in the warehouse during the shelling by Gen. Sherman's forces, 43 bales; shipped to Gaines & Co., Macon, Ga., 125 bales, to be stored to the credit of Samuel Rhea."

It appears, in the year 1862, that N. M. & Robert J. Lowery purchased 65 bales of raw cotton, which they kept in their warehouse at Atlanta until September, 1864, when it was all burned by Gen. Sherman's forces except 5 bales, so that there remained the 58 bales of Rhea's and Fain's cotton and the 5 bales of Anderson's cotton in the custody of Mr. Lowery in Atlanta, which was turned over to Capt. E. Hade, as appears by the following receipt:

OFFICE ASSISTANT QUARTERMASTER,
Atlanta, Ga., September 19, 1864.

I certify that I have this day taken possession of the following property, for and in behalf of the United States, for Government purposes. Said property was found in the city of Atlanta immediately after its capture by United States forces. Said property is claimed to have belonged to R. J. Lowery, a citizen of Atlanta, viz, (63) sixty-three bales cotton, marked D. [L.,] weighing (31,424) thirty-one thousand four hundred and twenty-four pounds. And will be duly accounted for on my return of quartermaster stores for the month of September, 1861. No payment has been made or tendered for said property.

E. HADE,
Capt. and A. Q. M.

The 63 bales embraced in the receipt—58 bales of Rhea & Fain and the 5 bales of Anderson—was taken in the name of R. J. Lowery, but Mr. Lowery in his evidence says:

"The cotton did not belong to me; but the receipt was taken in my name, because I was agent for the parties owning the cotton, and expected to collect the money immediately from the Government; and the parties not being present to attend to it, it was thought best to take the receipt in my name."

The amount of money invested in cotton by Ansley in the name of Rhea was $12,498.80, of which sum $5,000 belonged to Fain.

Fain brought suit in the Court of Claims for the whole amount of the net proceeds of the 58 bales of cotton in 1867 (4 C. Cls. R., p. 237), and the court held that the facts in the case did not establish a partnership; that the ownership of the cotton before its seizure was joint, with the right of each party to control his interest at discretion; that Fain was just entitled to recover of the proceeds of the sale of 58 bales of cotton a sum in proportion to the amount of his funds invested therein, which was found to be $8,360.

In the Price case (7 C. Cls. R., pp. 567 and 577) the Court of Claims delivered an elaborate opinion showing the amount and value of cotton taken from Atlanta which came to the possession of the Government, and it was found that the value of the 58 bales of cotton was $360.27 net per bale, of which $22\frac{6}{15}$ bales was Fain's proportionate share, which would leave Rhea's proportionate share $35\frac{9}{15}$ bales, at the rate of $360.27 per bale, amounting to the sum of $12,825.61 due Rhea. The 5 bales of cotton claimed by Anderson were taken and sold by the Government at the same time, which at the rate of $360.27 per bale, which would make due Anderson the sum of $1,803.35.

Both Rhea and Anderson were residents of Sullivan County, East Tennessee—that part of the State which was notorious for its loyal citizens; they both voted against and resisted secession and remained loyal to the Government of the United States throughout the war. Rhea was an abolitionist, and freed his slaves as early as 1848 and sent them to Liberia. Anderson was one of the board of directors of the East Tennessee and Virginia Railroad during the rebellion, and was instrumental in having the rolling stock of the said road turned over to the Government of the United States.

Your committee report back the accompanying bill as a substitute for H. R. 2910, and recommend its passage, with the following amendment: That the words "five" and "fourteen" in line 9 be stricken out, and in lieu thereof the words "eight" and "twenty-five" be inserted, and in line 10 the words "seven," "three," and "fifty cents" be stricken out, and in lieu thereof insert the words "eight," "three," and "thirty-five cents."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 359.

FRANCIS MILLET.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4462.]

The Committee on War Claims, to whom was referred the bill (H. R. 4462) for the relief of Francis Millet, submit the following report:

This is a claim for stores and supplies furnished by the claimant to the Army of the United States during the late war. Claim stated at $4,305.

The proof shows that United States troops during the late war took from the claimant the following stores and supplies:

3 barrels of lard, at $30 per barrel	$90
3 kegs lard, at $15 per keg	45
18 barrels of whisky, at $100 per barrel	1,800
40 bushels of oats, at 50 cents per bushel	20
5 tons of hay, at $20 per ton	100
300 bushels of corn, at 50 cents per bushel	150
300 pounds bacon	50
1 beef	50
Use and occupation for storehouse for hospital purposes	600
Total	2,905

Your committee is satisfied as to the loyalty of the claimant, and that stores and supplies of the value of $2,905 were taken for the use of the Army, and report back the bill and recommend its passage with the following amendments:

In line 4 after "Millet" insert "of Henderson, Ky.," and in lines 4 and 5 strike out "four thousand three hundred and five" and insert "two thousand nine hundred and five."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 360.

CREW OF STEAMSHIP WYOMING.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CADMUS, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2051.]

The Committee on War Claims, to whom was referred the bill (H. R. 2051) for the relief of the crew of the U. S. S. *Wyoming*, report as follows:

The muster and pay rolls of the U. S. S. *Wyoming* show that a number of the crew were enlisted in 1864 for two years, after the passage of the act of July 1, 1864. Most of these men served a longer time than that of enlistment, many nearly twelve months. Those who so served were paid one-fourth of the pay of their rating extra for the time they were detained beyond their term; the average extra pay to each being about $65. They were also paid during enlistment $200 bounty, being two-thirds of the sum provided for three years' service. To pay these men now $140 each would be to place them in a more favorable position than those who enlisted for three years, as they would then have received the bounty for a three years' enlistment and the one-fourth extra pay as two years' men, which they would not have received had they enlisted for the longer time. Exact justice to these men, your committee believe, would be done if they were paid the $100 bounty they ask, *less* the amount they have received as "one-fourth extra pay."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 361.

LEGAL REPRESENTATIVES OF MAJ. WILLIAM KENDALL.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1488.]

The Committee on War Claims, to whom was referred the bill (H. R. 1488) for the relief of the legal representatives of Maj. William Kendall, submit the following report:

Your committee adopt the report hereto annexed from the Committee on War Claims of the Fifty-first Congress, and recommend that the bill referred to your committee do pass.

House Report No. 2421, Fifty-first Congress, first session.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 830.]

The Committee on War Claims, to whom was referred the bill (S. 830) for the relief of the legal representatives of Maj. William Kendall. report as follows:

Your committee adopt the report, hereto annexed, from the Committee on Military Affairs of the Senate of the present Congress, and report back the bill and recommend its passage.

[Senate Report No. 746, Fifty-first Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 830) for the relief of the legal representatives of Maj. William Kendall, submit the following report:

That William Kendall was the regularly appointed sutler to the Army at Fort Columbus, New York Harbor, from 1858 to 1869. Said fort was a general recruiting station and depot for recruits for the Army, where large numbers of recruits were stationed for short periods for primary instruction, and were from thence forwarded to the companies and regiments to which they were assigned.

It is claimed that charges entered on the muster and descriptive rolls which accompanied certain detachments sent from said fort between January 1, 1867, and December 31, 1868, were not transferred to the rolls of the companies to which the recruits were assigned, and that by reason thereof said sutler never received pay for the same. This bill authorizes the accounting officers of the Treasury to settle the accounts of said sutler for supplies furnished by him to soldiers there recruited or stationed between January 1, 1867, and December 31, 1868, and in all cases where the charges claimed were regularly entered on the muster or descriptive rolls that accompanied the detachments sent from said post during said period, but were not transferred to the rolls of the companies to which they were assigned and therefore not paid to said sutler, that said amounts shall be allowed and paid to his legal representatives.

By the act of July 28, 1866, the office of sutler was abolished, to take effect July 1, 1867, and the Subsistence Department of the Army was required to sell upon credit to officers and enlisted men the supplies previously furnished by sutlers. But Congress failed to provide the funds for the purchase of the supplies for this purpose by the Subsistence Department, and in this exigency the office of sutler was continued in said Kendall until after December 31, 1868, by order of the Secretary of War. The following is a copy of said order:

GENERAL ORDERS,
No. 59.

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, May 30, 1867.

Whereas it appears from a report of the Commissary General of Subsistence, that to carry out the provisions of section 25 of the act approved July 28, 1866, entitled "An act to increase and fix the military peace establishment of the United States"—which section requires the Subsistence Department to furnish certain articles hitherto *sold by sutlers at military posts*—will involve the immediate outlay of a large

amount of subsistence funds for which no return can be realized for many months; and whereas no appropriation of funds has been made for that purpose, and the funds appropriated for the subsistence of the Army can not be diverted from their specific purpose without damage to the public service:

It is therefore ordered, That paragraph II, General Orders No. 6, dated War Department, January 26, 1867, terminating the warrants of all sutlers on the 1st day of July, 1867, be revoked, and sutlers will be permitted to trade with the troops, under the regulations relating to sutlers now in existence, until further orders.

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant-General.

Official:

ARTHUR MACARTHUR, JR.,
Assistant Adjutant-General.

The said Kendall was required to furnish supplies upon credit within certain prescribed limits for each month, as well after July 1, 1867, as before that date, being subject to the Army Regulations during the whole period in question; and when, therefore, he had reported the amount against each soldier to the commanding officer of the post, and had caused it to be entered upon the muster and descriptive rolls, he had performed his whole duty, and could then look only to the accounting officers of the Treasury for his pay in cases where the officers and enlisted men indebted to him were sent away from said post.

Under the Army Regulations the Government was bound to retain out of their pay the amounts due from each soldier. The sutler, it will be seen, was made subject to the same regulations after July 1, 1867, as before that date. The Government was therefore in good faith bound to retain the several amounts of indebtedness from the pay of the soldiers in favor of the said Kendall, whether the same were incurred before or after July 1, 1867.

The sutler could not follow the recruits as they left the post, nor control the officers who subsequently made out the company pay-rolls, without noting the claims due from each soldier for the guidance of the respective paymasters. He had a perfect right to rely upon the faithfulness of these officers, and to look to the Government for the security of his demands.

The Second Auditor of the Treasury fully admits the equity of this claim in a letter dated April 26, 1886, on the files in this case, and hereto attached and made part of this report, and explains why the settlement could not be made in the statement that "the company officers did not transfer the amounts to the company rolls." He states the amount of the claim to be about $2,000.

The law creating the office of sutler gave to him a lien upon the soldier's pay. If he had a lien at law for credits given previous to July 1, 1867, he surely had a lien in equity for credits properly given subsequent to that date.

Your committee in the last Congress reported favorably a bill similar to the one under consideration. That bill was amended in the Senate by limiting the time for which the sutler should be remunerated to previous to July 1, 1867, the date of the abolition of the office of sutler, after which the bill was passed.

Your committee, believing that if supplies were furnished by said sutler, in conformity with the Army Regulations, subsequent to July 1, 1867, when the office of sutler was abolished, and that charges for the same were duly entered on the muster or descriptive rolls that accompanied said detachments to their companies, but were not transferred to the company rolls, and therefore not paid to said sutler, that he or his legal representatives should be paid for the same, and therefore recommend the passage of the bill.

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
Washington, D. C., April 27, 1886.

In compliance with instructions contained in department indorsement of the 20th instant, on letter of Hon. Wm. M. Springer, chairman Committee on Claims, I have the honor to report that the last claim filed in this office in the case of William Kendall, deceased, sutler at Fort Columbus, New York Harbor, was presented by his executrix, Mary C. Hamilton, and was for various sums alleged to be due to three hundred and seventy enlisted men transferred from the depot at Fort Columbus to other points.

This claim was audited and confirmed by the Second Comptroller for the amount of $564.74, which was allowed by certificate No. 24,615, June 12, 1884. This allowance included all unsettled balances found to be due the sutler from men named in his applications filed in this office from November 5, 1859, to October 11, 1883, which had not been paid by previous certificates, seven of which had been issued as follows:

No. 22,340, June 8, 1860	$504.89
No. 22,470, September 19, 1860	11.50
No. 22,476, September 25, 1860	11.23
No. 22,500, October 16, 1860	253.90
No. 334,501, October 3, 1867	235.22
No. 543,451, October 8, 1869	893.17
No. 526,401, April 27, 1869	66.03

In the case of three hundred and seventy men transferred from Fort Columbus from August, 1867, to December 31, 1867, and one hundred and six men transferred August 15, 1868, aggregating a claim of nearly $2,000, no allowances were made in favor of the sutler, for the reason that no stoppages in his favor were entered on the muster and pay rolls to which the men were transferred, except in five cases, and in these the rolls indicate that payment had already been made to the sutler.

Under existing laws and regulations only such sums as are found charged on the muster and pay rolls or vouchers, and stopped against the soldiers and in favor of a sutler, can be allowed.

This case has been very carefully and thoroughly examined, and no further allowance can be made under present laws.

In view of the fact that the office of sutler was, by act of July 26, 1866, abolished, to take effect July 1, 1867, Kendall's estate would appear to have a legal right to a lien upon the pay of said recruits from January 1, 1867, to July 1, 1867, and an equitable right after said date, for the reason that the officers at the post consented to the crediting of said recruits by the sutler, though in the cases in dispute the company officers did not transfer the amounts to the company rolls.

By authority of the Adjutant-General, U. S. Army, dated January 22, 1868, "Recruits at general depots are authorized to purchase certain articles from the sutler or post-trader, which are paid for by the Government, the amount being collected for the United States on payment of the recruit."

The copy of the bill referred to, together with the letter from the Committee on Claims, is herewith returned.

Very respectfully,

WM. A. DAY,
Auditor.

The SECRETARY OF THE TREASURY.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 362.

GEORGE W. ECKERSON.

FEBRUARY 16, 1892.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 1745.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1745) for the relief of George W. Eckerson, having considered the same, respectfully report:

That the committee has examined the evidence presented with this case and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill. The report of the War Department on this case is printed herewith as a part of this report.

The committee recommend that the bill do not pass

Case of George W. Eckerson, late private Company D, Ninth New York Volunteers.

RECORD AND PENSION DIVISION, *January 25, 1892.*

George W. Eckerson was enrolled as a private in Company D, Ninth New York Volunteers, August 28, 1862, to serve three years, and is reported on the rolls from enrollment to and including April 30, 1863, present. The muster-out roll of the company dated May 20, 1863, reports him "transferred to Capt. Morris's battery."

The Ninth New York Infantry, a two years' regiment organized in May, 1861, was mustered out of service on May 20, 1863, upon the expiration of the term of service of its original members. Shortly before its muster out, about May 3, 1863, this applicant and a number of others who, like him, had joined the regiment in the fall of 1862 as three years' men, and who were, therefore, not entitled to be mustered out with the regiment, were transferred to a detachment intended to be organized as a battery under the command of Capt. R. H. Morris, an officer of the same regiment.

This battery never completed its organization for the reason, partially, that a large number of the men deserted and the remainder of the detachment was transferred to the Third New York Infantry, upon the records of which organization the applicant's name has not been found.

No record has been found of this man's service subsequent to his reported transfer to Capt. Morris's battery, on or about May 3, 1863, although his term of enlistment did not expire until August 28, 1865.

The Department, on December 11, 1890, in reply to a verbal request made by the Hon. Frank Lawler, M. C., on December 9, 1890, for correction of the records of the Department to show Geo. W. Eckerson enrolled in Company D, Ninth New York Volunteers, for the period of two years, informed Mr. Lawler as follows: "The record shows this man to have been enrolled for the period of three years, and there is no law under which this record can now be altered as desired."

An application for an honorable discharge as of Company D, Ninth New York Volunteers, was referred, January 8, 1891, by Mr. Lawler, for the action of the Department.

The Department, *in reply, informed Mr. Lawler*, January 9, 1891, of the disposition *of this applicant, and others of the same organization* who, like him, had enlisted for

the period of three years shortly before the muster out of the Ninth New York Volunteers (as hereinbefore stated) and, further, that the Department required a full statement of the circumstances under which applicant finally left the service after his transfer to Capt. Morris's detachment, in order that it might be determined whether or not he was entitled to an honorable discharge.

The following is a synopsis of the testimony submitted:

The soldier (Eckerson) in a letter to Hon. Frank Lawler, dated January 29, 1891, invites attention to an accompanying copy of an affidavit by Ignatius Flynn, and states that when he (Eckerson) enlisted in the Ninth Regiment New York Volunteers it was expressly understood by the recruiting officer, Capt. Rodiriquez (and was offered as an inducement by him) that "we" were only to enlist for the unexpired time of the regiment, and at the completion of that time of service would receive an honorable discharge from the service. That the reason his name does not appear as a member of the battery to be organized and commanded by Capt. Morris, is because he and four other members of the regiment concluded that they had lived up to the terms of their enlistment, and he and the four men referred to (Rush, Christopher, Davis, and Bishop) returned home with the regiment. That Capt. Rodiriquez told "us," when enlisting, that "we" would not be held after the expiration of the regiment's time of service; and on this ground "we" considered "ourselves" free; that at the time of his enlistment he and others were about to enlist in a new regiment, but the cry through the city then was to fill up the depleted ranks of the regiments then in the service. For that reason "they" joined the Ninth Regiment, at which time Capt. Rodiriquez informed "us" that the inserting "three years" in the muster of the regiment was done simply for form's sake, and that "our" time would positively be up at the disbandment of the regiment.

Ignatius Flynn, of 51 Carmine street, New York City, in an affidavit executed on July 28, 1864, as shown by the copy submitted, declares that he accompanied the applicant, George W. Eckerson, to the recruiting office of the Ninth New York Volunteers on Broadway, New York, on or about August 29, 1862, at which time and place applicant enlisted in said regiment; that the recruiting officer, who affiant is informed and believes was Capt. Rodiriquez, of Company H, said regiment, did, in affiant's hearing, hold out and distinctly offer the inducement to the aforesaid applicant that if he would enlist at that time he should return and receive an honorable discharge at the time the regiment returned, and that he with all the remaining men of the regiment should be mustered out of the service at the same time. Affiant further declares that it was then and there clearly understood that Eckerson enlisted only for the unexpired term of the regiment.

On the 3d of February, 1891, the case was referred to the Acting Judge-Advocate-General of the Army, who remarked:

"The record evidence in the case of the within-named Eckerson shows that in the fall of 1862 he enlisted for the period of three years in a regiment whose term of service (two years) expired the following May. He alleges that the recruiting officer, with whom he enlisted, represented to him that he was only enlisting for the unexpired term of the regiment, and that the inserting 'three years' in the muster was done simply for form's sake; that on the regiment being mustered out (in May, 1863) he concluded that he had lived up to the terms of his enlistment and went home.

"In support of his assertion that it was the understanding between the recruiting officer and himself that he was enlisting only for the unexpired term of the regiment he submits what purports to be a copy of an affidavit by one Ignatius Flynn, dated New York, July 28, 1864.

"This copy of affidavit is not authenticated in any manner, nor is there any explanation as to how a copy was obtained at this time; the copy is quite valueless as evidence.

"It is also shown that shortly prior to his going home he had been transferred to another organization to serve out the remainder of his term of enlistment, and that he never joined said organization.

"Under the circumstances stated I know of no law under which an honorable discharge could be granted to this man.

"G. NORMAN LIEBER,
"Acting Judge-Advocate-General."

The Assistant Secretary of War having personally reviewed the case, concurred in the opinion of the Acting Judge-Advocate-General, which was on the following day, February 7, 1891, communicated to Mr. Lawler, as embodying the decision of the Department.

On February 25, 1891, the original affidavit of Mr. Flynn was submitted by Mr. Lawler, in person, with a view to a reconsideration of the case.

This original affidavit with all the papers in the case was then referred to the Acting Judge-Advocate-General for a reconsideration of his previous remarks, and was returned with an indorsement of which the following is a copy:

"Assuming that the paper referred to in the preceding indorsement is an affidavit, which, in the absence of a notarial seal is not apparent, I am of opinion that, nevertheless, the rule should apply that a valid written record can not be impeached by parol evidence. As stated by Greenleaf (Vol. I, p. 321), 'when parties have deliberately put their engagements into writing, in such terms as import a legal obligation, without any uncertainty as to the object or extent of such engagement, it is conclusively presumed that the whole engagement of the parties, and the extent and manner of their undertaking, was reduced to writing, and all oral testimony of a previous colloquium between the parties, or of conversation or declarations at the time when it was completed, or afterwards, as it would tend in many instances to substitute a new and different contract for the one which was really agreed upon, to the prejudice, possibly, of one of the parties, is rejected.' In other words, as the rule is now more briefly expressed, 'parol contemporaneous evidence is inadmissable to contradict or vary the terms of a valid written instrument.'

"G. NORMAN LIEBER,
"Acting Judge-Advocate-General."

This latter opinion of the Acting Judge-Advocate-General was also concurred in by the Assistant Secretary of War, and on the 28th of February, 1891, Mr. Lawler was informed that the Department adhered to its formerly expressed opinion, that there is "no law under which an honorable discharge could be granted to this man," and that consequently no relief could be extended by the War Department.

Since that date the status of the case has undergone no change.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 363.

DANIEL B. COURCHAINE.

FEBRUARY 16, 1892.—Laid on the table and ordered to be printed.

Mr. PATTON, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 1346.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1346) to remove the charge of desertion from the name of Daniel B. Courchaine, have had the same under consideration, and it herewith submits the following which is a part of this report:

Case of Daniel B. Courchaine, alleged late of Company C, Second Ohio Cavalry.

RECORD AND PENSION DIVISION, *January 27, 1892.*

The name of Daniel B. Courchaine has not been found on the rolls of Company C, Second Ohio Cavalry.

Daniel B. Couchins (also borne as Daniel B. Couchain) was, however, a member of that organization, and was enrolled as a private February 16, 1865, to serve three years. On the company muster roll for March and April, 1865, he is reported absent at remount camp since April 25, 1865; May and June, 1865, absent without leave since June 23, 1865; company muster-out roll, dated September 11, 1865, deserted June 23, 1865, at Benton Barracks, Mo.

The following is a synopsis of the testimony submitted with a view to the removal of the charge of desertion and the issue of an honorable discharge.

Under date of September 2, 1886, claimant testified that he left his company at the St. Louis Barracks one month before his regiment was mustered out.

George R. Winno, Locust Point, Ohio, testified December 13, 1887, that when the soldier returned home from the army in June, 1865, he had "some kind of malaria hanging over him," his appetite was very poor and he was in such bad health that he was entirely unable to do any kind of labor for about a year from the time he came back; that Dr. Hitchcock, who attended and prescribed for him all that time, had since died. Affiant further declared that he took the soldier home with him and that he remained with affiant about four weeks, and was with him every week for a year afterwards.

Charles L. Winne, late of Company B, Second Ohio Cavalry, testified January 5, 1888, that about the second week in June, 1865, claimant was taken sick with some kind of malarial fever, and remained sick all the time he was at Benton Barracks; that upon his (affiant's) arrival home in the latter part of August, 1865, he found the claimant still sick and entirely disabled, and he so continued until the following spring. (The muster roll of Company B, Second Ohio Cavalry, for May and June, 1865, reports Charles L. Winne, a private, absent sick in hospital at Benton Barracks, Mo.)

On February 10, 1888, the application was denied on the ground that as the applicant served less than six months relief from the charge of desertion could not be granted under existing law.

Under date of July 17, 1891, claimant testified that after leaving his command at St. Louis, Mo., he went home, wearing his uniform, as did hundreds of others, and that he was sick at the time, having told his officers that he was going, as he did not see any use of remaining, sick as he was; that he did not conceive that his services were needed when the war was ended, nor did he realize that he was doing the Government or himself any harm by his act.

(The only record found of this man's sickness during his service in Company C, Second Ohio Cavalry, is in a report of treatment for colic at Tod Barracks, Columbus, Ohio.)

On July 27, 1891, the claimant's attorney was informed that the physical inability of this man to perform the duties of a soldier at the date he absented himself from military control must be established by satisfactory testimony, and his physical inability to return to his command or to place himself under military control from the above-named date to September 11, 1865, must be shown by the testimony of reliable parties having personal knowledge of the facts, including, if possible, that of his attending physician. And, it was added, the applicant should also state, under oath, whether or not he rendered any military service prior to his enlistment in Company C, Second Regiment, Ohio Cavalry.

No reply to this communication has been received, and the status of the case has undergone no change since the action taken by the Department on February 10, 1888, above cited.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

In view of these facts herewith set forth in records of the War Department your committee beg leave to report the same back to the House with the recommendation that it do not pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 364.

LEONIDAS C. HOUK.

FEBRUARY 16, 1892.—Ordered to be printed.

Mr. RICHARDSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany concurrent resolution.]

The Committee on Printing have had under consideration the concurrent resolution providing for the printing of eulogies delivered in Congress upon Leonidas C. Houk, and report the same back with the recommendation that it be adopted.

The committee further reports that the cost of printing the eulogies provided for in the resolution will amount to $3,700.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 365.

ANNALS OF CONGRESS, ETC.

FEBRUARY 16, 1892.—Ordered to be printed.

Mr. RICHARDSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany Mis. Doc. —.]

The committee have considered the resolution of the House to print the "table showing the contents of the several volumes comprising the Annals of Congress, Congressional Debates, Congressional Globe, Congressional Record, Statutes at Large, and United States Supreme Court Reports," etc., and report same with the recommendation that it do pass.

The estimated cost of printing and covering same is $165.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 366.

JURISDICTION OF COURT OF CLAIMS IN CERTAIN CASES, ETC.

FEBRUARY 16, 1892.—Laid on the table and ordered to be printed.

Mr. LAYTON, from the Committee on the Judiciary, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2604.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 2604) to amend an act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States," having had the same under consideration, now submit the following report:

This bill, as indicated (in part) in the title, is amendatory of and supplementary to an act of Congress approved July 4, 1864 (see U. S. Stat. at L., vol. 13, chap. 240, p. 381), and also of an act amendatory thereto passed February 18, 1875 (see secs. 300*a* and 301*b*, vol. 18, chap. 80, p. 317).

Upon a careful examination and comparison your committee find that this bill differs materially from the original act and the act amendatory thereto, above referred to, in several important particulars, neither of which commend themselves to your committee, viz:

(1) Said acts preclude all claims growing out of the destruction, etc., of property, etc., by Army and Navy, etc., in battle, etc.

This bill, as appears by the last thirteen lines of section 1 thereof, proposes to allow all claim for damages, etc., to property, and for use and occupation of real estate, where the same was not necessary to the success of a battle in progress or the defense of or attack upon a position.

(2) The act first above referred to applied only to all just claims, etc., of "loyal citizens in States not in rebellion," and, by the said amendatory act of 1875, was extended to the State of Tennessee, and to the counties of Berkeley and Jefferson in the State of West Virginia.

This bill purposes to enlarge and extend its application to all the States and to "citizens who did not give aid or comfort to the rebellion during the late war," omitting the word "loyal" entirely.

(3) By the statute of limitations all similar claims are barred, unless proceedings, etc., are commenced within six years from the maturity, etc., of the claim.

This bill proposes to wipe out all limitations as to time, and permit all such claims to be presented, etc., regardless of their maturity.

For these reasons, taking into consideration the general nature and character of a large portion of the claims that would doubtless be presented, etc., for adjustment and payment, and the long time that has elapsed since they accrued, your committee deem it unwise to extend the operations of the present statutes in the premises, and therefore report said bill adversely and recommend that it lie on the table.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 367.

ALEXANDER K. CRAIG vs. ANDREW STEWART.

FEBRUARY 16, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. BROWN, from the Committee on Elections, submitted the following

REPORT:

The Committee on Elections beg leave to submit the following report in the case of Alexander K. Craig *v.* Andrew Stewart, from the Twenty-fourth Congressional district of the State of Pennsylvania.

The contestant has stated many reasons why he should be declared elected to the Fifty-second Congress, but the principal one and the only one the committee deems it necessary to report on is: That there were a large number of ballots cast at the election of November 4, 1890, for the contestee by persons whose names were not on the registry list, and who did not furnish the affidavits required by the laws of Pennsylvania to entitle them to vote. That a sufficient number of such ballots were cast to change the result of the election.

The constitution of the State of Pennsylvania provides, article 8:

SECTION 1. Every male citizen twenty-one years of age possessing the following qualifications shall be entitled to vote at all elections, if—

First. He is a citizen of the United States for one month.

Second. He has resided in the State one year, or having been a former qualified elector, or native-born citizen, has removed therefrom and returned, then six months immediately preceding the election.

Third. He is a resident of the election district two months immediately preceding the election.

Fourth. He has, if twenty-two years old and upwards, paid a State or county tax within two years, which was assessed at least two months, and paid at least one month before the election.

The statute law of the State, after providing for a careful registration of voters preceding elections, further provides that:

On the day of the election any person whose name shall not appear on the registry of voters, and who claims the right to vote at said election, shall produce at least one qualified voter of the district as a witness to the residence of the claimant in the district in which he claims to be a voter, for the period of at least two months immediately preceding said election, which witness shall be sworn or affirmed, and subscribe a written or partly written and partly printed affidavit to the facts stated by him, which affidavit shall define clearly where the residence is of the person so claiming to be a voter.

The statute further provides:

And the person so claiming the right to vote shall also take and subscribe a written or partly written and partly printed affidavit, stating, to the best of his knowledge and belief, when and where he was born; that he has been a citizen of the United States for one month and of the Commonwealth of Pennsylvania; that he has resided in the Commonwealth one year, or, if formerly a qualified elector or a native-born citizen thereof, and has removed therefrom and returned; that he has resided therein six months next preceding said election; that he has resided in the district in which he claims to be a voter for the period of at least two months; that he has not moved into the district for the purpose of voting; that he has, if twenty-two years of age or upwards, paid a State or county tax within two years which was assessed at least two months and paid at least one month before the election.

The statute further provides:

The affidavits of all persons making such claims, and the affidavits of the witnesses to their residence shall be preserved by the election board, and at the close of the election they shall be enclosed with the list of voters, tally list, and other papers required by law to be filed by the return judge with the prothonotary, and shall remain on file therewith in the prothonotary's office, subject to examination as other election papers are.

The other papers, consisting of the ballots, registry lists, tally sheet, list of voters, and one of the triplicate returns, as soon as the election is over and the result is declared, shall be placed in the ballot box, which shall be securely sealed up and placed in the hands of the person designated as its depository, and be safely kept by him until the morning of the next election required by law to be held, when, if the ballot box is required for use at the election, the election officers are to open it and totally destroy all the ballots and other papers found in it by burning them. In the meantime, however, the ballots and the papers in the ballot box are subject to the call of any court or tribunal authorized to try the merits of the election at which they were used.

The third section of the act of January 30, 1874, of the laws of Pennsylvania, expressly provides:

And no man shall be permitted to vote at the election on that day whose name is not on said list, unless he shall make proof of his right to vote as hereinafter required.

The courts of Pennsylvania have ruled that a compliance with the law in this regard is absolutely indispensable. (58 Pa. St., 338; 59 Pa. St., 109; 1 Brewst., 103; 2 Stew., 239; 71 Pa. St., 302; 11 Phila., 631; 10 Phila., 213; 5 W. N. C., 9; 2 S. and R., 267; 1 Brewst., 102, 103; 135 Pa. St., 459.)

Under the act of January 30, 1874 (P. L. 31), it is the duty of the elector, whose name is not on the registry list, to produce the required affidavits at the time he offers his vote. Election officers can not waive such production. A vote received without such affidavit is illegal, and can not be made legal at a subsequent investigation in the courts. (McDonough's election, 105 P. S. 488; Lower Oxford contest, 2 C. C. 323; *In re* contested election, 42 L. I., 304; Marks *v.* Park, 2 Leg. Rec., 62; Fowler *v.* Felthoff, *Ibid*, 403; Commonwealth *v.* Cornelius, 8 W. N. C., 215; *In re* contested election, 4 Kulp, 196.)

The contestant claims that a large number of votes were received at certain polling places from men whose names were not on the registry lists, and who failed to make the affidavits and produce witnesses as required by law.

On this point the committee is unanimous in the opinion that more than a sufficient number of votes from unregistered voters whose affidavits are not on file as required by law were cast for the contestee to change the result and give the seat in contest to the contestant. But a minority of the committee contend that there is no sufficient evidence in the record that the affidavits required of all of the unregistered voters were not duly executed.

The evidence shows that when the papers filed by the return judge with the prothonotary were delivered up by him for use in this contest, the affidavits in question were not with them. The contestant offered no other or further evidence to show that they were not taken than this failure to find them on file in the office of the prothonotary. He contends that the absence from the prothonotary's office of a large number *of such affidavits* which were required to be there, especially when a

large number were found there, is sufficient proof to raise the prima facie conclusion that they never were taken.

The majority of the committee agree in this view. We insist that the presumption is that if these affidavits had been executed they would have been found where the law provides they should be filed, and that on failure of the officer to produce them the burden of proof was cast on the contestee to show that they were in fact executed. He offered no evidence on this point, and by this failure of the contestee the prima facie case of the contestant becomes conclusive.

Therefore the committee recommend the adoption of the following resolutions:

"*Resolved*, That Andrew Stewart was not elected as a Representative to the Fifty-second Congress from the Twenty-fourth district of Pennsylvania, and is not entitled to the seat.

"*Resolved*, That Alexander K. Craig was duly elected as a Representative from the Twenty-fourth district of Pennsylvania to the Fifty-second Congress, and is entitled to his seat as such."

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CRAIG vs. STEWART.

FEBRUARY 17, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON, of Indiana, from the Committee on Elections, submitted the following as the

VIEWS OF THE MINORITY:

The undersigned, constituting a minority of the Committee on Elections, dissent from the report of the majority of said committee in the contested-election case of Alexander K. Craig against Andrew Stewart, from the Twenty-fourth Congressional district of the State of Pennsylvania, and respectfully submit to the House the following as an expression of their views in said case:

Article 8 of the constitution of the State of Pennsylvania defines the qualifications of electors in that State in the following language, to wit:

Every male citizen twenty-one years of age possessing the following qualifications shall be entitled to vote at all elections: (1) He shall have been a citizen of the United States one month; (2) he shall have resided in the State one year, or, if having previously been a qualified elector or native-born citizen of the State, he shall have removed therefrom and returned within six months immediately preceding the election; (3) he shall have resided in the election district where he shall offer to vote at least two months immediately preceding the election; (4) being twenty-two years of age or upward he shall have paid within two years a State or county tax which shall have been assessed at least two months and paid at least one month before the election.

The general assembly of the State of Pennsylvania, by an act approved January 30, 1874, provided for the registration of all the electors of the State, which act contains the following provision with respect to all persons whose names shall not appear on the registry list on the day of the holding of an election, to wit:

And no man shall be permitted to vote at the election on that day whose name is not on said list unless he shall make proof of his right to vote as hereinafter required.

The said act of said general assembly also contains the following provision, to wit:

On the day of election, any person whose name shall not appear on the registry of voters, and who claims the right to vote at said election, shall produce at least one qualified voter of the district as a witness to the residence of the claimant in the district in which he claims to be a voter for the period of at least two months immediately preceding said election, which witness shall be sworn or affirmed, and subscribe a written or partly written and partly printed affidavit to the facts stated by him, which affidavit shall define clearly where the residence is of the person so claiming to be a voter; and the person so claiming the right to vote shall also take and subscribe a written or partly written and partly printed affidavit stating, to the best of his knowledge and belief, when and where he was born; that he has been a citizen of the United States for one month and of the Commonwealth of Pennsylvania; that he has resided in the Commonwealth one year, or, if formerly a qualified elector or a *native-born citizen thereof, and he has removed* therefrom and returned, that he *has resided therein six months next preceding* such election; that he has resided in

the district in which he claims to be a voter for the period of at least two months immediately preceding the said election; that he has not moved into the district for the purpose of voting therein; that he has, if twenty-two years of age or upward, paid a State or county tax within two years which was assessed at least two months and paid at least one month before the election.

The said affidavit shall also state when and where the tax claimed to be paid by the affiant was assessed, and when and where and to whom paid, and the tax receipt therefor shall be produced for examination unless the affiant shall state in his affidavit that it has been lost or destroyed or that he never received any; and, if a naturalized citizen, shall also state when, where, and by what court he was naturalized, and shall also produce his certificate of naturalization for examination. But if the person so claiming the right to vote shall take and subscribe an affidavit that he is a native-born citizen of the United States, or, if born elsewhere, shall state the fact in his affidavit, and shall produce evidence that he has been naturalized, or that he is entitled to citizenship by reason of his father's naturalization, and shall further state in his affidavit that he is at the time of making affidavit of the age of twenty-one and under twenty-two years; that he has been a citizen of the United States one month and has resided in the State one year, or, if a native-born citizen of the State and removed therefrom and returned, that he has resided therein six months next preceding said election and in the election district two months immediately preceding such election, he shall be entitled to vote, although he shall not have paid taxes.

In the same section of said act of January 30, 1874, and immediately following the foregoing provisions, it is provided, with respect to the disposition to be made of affidavits taken at the election from nonregistered voters, as follows, to wit:

The said affidavits of all persons making such claims and the affidavits of the witnesses to their residence shall be preserved by the election board, and at the close of the election they shall be enclosed with the list of voters, tally list, and other papers required by law to be filed by the return judge with the prothonotary, and shall remain on file therewith in the prothonotary's office subject to examination as other election papers are. If the election officers shall find that the applicant possesses all the legal qualifications of a voter he shall be permitted to vote and his name shall be added to the list of taxables by the election officers, the word "tax" being added where the claimant claims to vote on tax, and the word "age" where he claims to vote on age, the same words being added by the clerk in each case, respectively, on the list of persons voting at such election.

The act in question also provides that the officers of election shall be of opposite politics; that any qualified voter of an election district may challenge any person who attempts to vote therein, and that thereupon the proof of his right to vote shall be publicly made by the person challenged and passed upon by the election officers; that it shall be the imperative duty of the election officers to require of all nonregistered persons who attempt to vote at the election proof by affidavit of their qualification, whether a challenge to their votes is interposed by a third person or not, and makes the failure of said officers so to do a misdemeanor, punishable by a fine not exceeding $500, or imprisonment for not more than one year, or both, at the discretion of the court. But it is not made a criminal offense for a nonregistered elector to vote without having made or furnished the affidavits. The election officers are also required by this act to count the votes when cast, to publicly announce the result at the polls as soon as it is by them ascertained, and, immediately thereafter, to put up at the door of the election house for the information of the public a brief statement signed by them showing the votes received by each candidate. The election officers are also required to make out and sign returns in triplicate, with return sheet in addition, which triplicate returns are to be inclosed in envelopes sealed in the presence of the officers, and one envelope with the unsealed return sheet is to be given to the judge of the election by them, which envelope it is provided shall contain a list of the voters at the election, a tally paper, and the oaths of the election officers. This judge shall deliver the said return

sheet and said envelope and contents to the prothonotary of the court of common pleas at 12 o'clock the day following the election, and provision is made for the opening of the same by the said court and the computing of the same by its sworn officers, appointed by the judge thereof, in the presence of said judge, and the certifying of the same under the seal of the court.

It is further provided that said proceeding shall be open to the public and in case any returns shall be missing, or in case of complaint by any qualified elector under oath charging palpable fraud or mistake, or where fraud or mistake is apparent on the returns, the court may issue summary processes against the election officers to produce the missing paper in open court, and, if fraud or mistake be observed, that corrections may be made by the court. The ballots cast at the election, together with one of the tally sheets and list of voters and triplicate returns, are by this act required to be placed in the ballot box, which is to be securely sealed and delivered into the hands of some person designated by the law as a depositary for the same, to be by him safely kept, subject to the call of any court or tribunal authorized to try the merits of the election, until the ballot box may be needed for the holding of an election authorized by law, when the election officers, after being sworn, shall open it and destroy the ballots and papers therein contained.

Your minority have now quoted and stated enough of the election laws of the State of Pennsylvania to make intelligible what they have to submit with respect to the case now undergoing consideration.

At the regular election for Representative to the Fifty-second Congress from the Twenty-fourth Congressional district of Pennsylvania, held in that district on the 4th day of November, 1890, there were three candidates for that office, namely, Andrew Stewart, Republican; Alexander K. Craig, Democrat; and Edward Campbell, Prohibitionist. On the counting of the votes cast Andrew Stewart was by the proper canvassing officers declared to have been legally elected Representative to Congress from the district by a plurality of 123 votes, and thereupon the certificate of election was issued to him by the officer whose right and duty it was to issue certificates in such cases. Alexander K. Craig, however, contests the right of the sitting member to the seat to which he was thus declared elected, mainly upon the alleged ground that a number of persons in excess of his plurality whose names did not appear on the registered lists of said district voted for him at said election without having made and furnished the affidavits required of nonregistered persons by the law of Pennsylvania hereinbefore set out, which votes were canvassed and computed for him by the officers of election.

The contestant claims to have proven this state of facts by the testimony taken in this case and therefore asserts that he is entitled to and should be given the seat now occupied by the contestee in this House. It is upon this proposition that a difference of opinion exists among the members of your committee. The majority insist that the contestant has established all of these facts and that he should be admitted to the seat. The minority concede that the contestant has shown a sufficient number of votes to have been cast by nonregistered persons for the contestee and counted for him by the election officers to overcome his plurality, but they strenuously deny that the contestant has proved that these persons failed to make and procure affidavits required of nonresident voters and they doubt whether he is entitled to be seated even if he has.

That the burden of proof is on the contestant to establish his claim and contest is too plain to require the citation of authority. Assuming, for sake of the argument, that he is entitled to a seat in this body if he proves that nonresident voters sufficient in number to overcome the plurality of the contestee voted for the latter at the said election without having made the affidavits required by law, it will not suffice for him to prove *a part of these facts.* He must establish his *entire* case and show affirmatively that every method whereby such persons might have become legal voters was neglected. It is not enough that he has proven certain persons to have voted for the contestee at such election without having made and furnished affidavits, since such persons may have been duly registered and hence possessed the right to vote without affidavits; nor will it suffice for him to show that certain persons voted without having been registered, since nonregistered voters could still enjoy the right of suffrage by making and producing affidavits.

Before proceeding, however, to examine whether the contestant has shown affirmatively and adequately that these nonresident voters who voted for the contestee failed to make and furnish the affidavits required of them by law, your minority desire to refer to some other matters connected with this case.

It has not been expressly decided in any case that has fallen under the observation of the minority that the failure of a nonregistered person to make an affidavit required by law as a prerequisite to voting render his vote illegal after it had been cast and counted. The supreme courts of Pennsylvania and Wisconsin, however, have held that such was the effect where the nonregistered voters made and furnished *affidavits which were defective in material particulars*, and in so deciding they stated that laws requiring affidavits of nonregistered voters were mandatory rather than directory. It is a plain inference, however, that if in these cases there had been *no affidavits whatever* made by the nonregistered voters the holding would have been the same way. (See in recontested election of Martin McDonough, 105 Pa., p. 488; contested election of Owen Cusick, 136 Pa., p. 459; State on complaint of Doerflinger *v.* Helmantel, 21 Wis., p. 574; State *ex rel.* Bancroft *v.* Stumpf, 23 Wis., p. 630.)

The supreme court of Illinois, on the other hand, has twice held that a law of the kind referred to was simply directory, and that the vote of a nonregistered person, cast upon affidavits materially defective at an election where affidavits were by law required to be made by a nonregistered person before voting, was valid (78 Ill., p. 170; 88 Ill., p. 498).

In the case of Campbell *v.* Weaver, a contested election of the Forty-ninth Congress, from one of the congressional districts of the State of Iowa, reported at page 455, volume 7, of the House Contested Election Cases, the contest turned on the construction of the election law of that State which required of all nonregistered persons the making of certain affidavits before they could vote. The persons whose right to vote was in controversy had made affidavits defective in very material particulars. The majority of the election committee reported that the law should be held to be directory and not mandatory, and that the votes of such persons were legal and should be counted. The House adopted this report and retained Mr. Weaver in his seat.

In the contested election case of Curtin against Yocum, from a congressional district of Pennsylvania, in the Forty-ninth Congress, reported at page 416, volume 5, of the House Contested Election Cases, the construction of the very election law of that State under which the

election in the case now under consideration was held is discussed in the report of the minority of the Committee on Elections, and it was therein declared that the provision of the law requiring affidavits of nonregistered voters was purely directory. This report was adopted by the House.

Insomuch, however, as the report was clearly right upon other grounds it can not fairly be said that by adopting it and retaining Mr. Yocum in his seat, the House necessarily held with the minority in their view that the provision of the law referred to was directory.

In view of the conflict in the authorities on this question, as hereinbefore pointed out, and insomuch as there are weighty reasons in support of each view, which reasons will be found fully set forth in the decision of the courts and in the reports adopted by the House of Representatives, your minority feel that if the rule that the statutes requiring nonregistered voters to make affidavits before voting is to be held mandatory by this House, and the voter thereby cut off from the privilege of proving, after the election, that he possessed the constitutional qualifications of an elector at the time he cast his ballot, the House should require of all contestants proof of a clear and satisfactory character that the nonregistered electors really did not make and produce the necessary affidavits.

Referring to the case now under consideration there is every reason why the House should hesitate to deprive the electors of the Twenty-fourth Congressional district of Pennsylvania of their votes by turning out the sitting member and installing the contestant in his place upon the purely technical, remote, and inadequate proof offered by the contestant.

It is quite apparent from the testimony that the nonregistered persons alleged to have voted without affidavit were, with but trifling exceptions, persons who actually possessed all of the *constitutional qualifications* necessary to make them electors.

The fact that although the parties to this contest diligently tried to prove that persons voted at the election without having these constitutional qualifications, they only succeeded in establishing the fact in a dozen or so instances, demonstrates this quite plainly. It is also very apparent from the evidence that, if these nonregistered voters made no affidavits, it was simply because they were universally recognized to be constitutional voters, and, for that reason, were allowed to vote without being challenged, either by the citizens present, who possessed, as before stated, the right of challenge, by the public challengers, who, it appears, were at the polls, or by the Democratic or Republican officers of the election boards.

That persons about whose *constitutional qualifications* there was any possible doubt were allowed to vote at the election without challenge is absolutely incredible, particularly when it is remembered that this was a close and heated election for Congress, where party spirit ran high and where the partisans of each party were exerting themselves to the utmost to win the day. Indeed it was stated before the committee and not denied that many of the nonregistered persons who are claimed to have voted without making affidavits were old and wealthy residents of the district in which they voted, and it seems that some of them had held prominent offices therein. It is in evidence, too, that if nonregistered persons actually voted at the said election without making affidavits, the practice was not at all confined to one political party, but extended to both.

On *the question as to whether the contestant* has sufficiently proven

that no affidavits were made and produced by the nonregistered voters at this election, the minority contend that he has not. When a person offering to vote is challenged at the polls no presumptions are indulged in favor of his right to vote. He is then and there called upon to furnish evidence of his qualifications as an elector. But when he has once voted unchallenged and his ballot has been deposited in the ballot box and counted and canvassed and a certificate of election issued upon it, quite a different rule prevails. Every reasonable intendment should then be indulged in his favor and his vote should not be rejected upon technical presumptions and because some degree of doubt may be thrown upon it. Particularly is this the case where a contestant upon whom rests the burden of proof and who asks that the vote shall be rejected refuses to make positive proof of the voter's disqualification which it appears it is easily within his power to do if the voter, in point of fact, had not the right of suffrage.

This principle is most forcibly expressed in the report of the minority of the committee on elections in the contested-election case of Wilson against Gooding, which came before the House of Representatives in the Forty-second Congress from an Indiana Congressional district, and which report was adopted by the House. The language used is as follows:

> Evidence which might have been sufficient to put the voter to his explanation if challenged at the polls is not deemed sufficient to prove a vote illegal after it has been admitted * * * after a vote has been admitted something more is required to prove it illegal than to throw doubt upon it. There ought to be proof which weighed by the ordinary rules of evidence satisfies and convinces the mind that a mistake has been made, and which the House can rest upon as a safe precedent in like cases.

This language is quoted at section 464 of McCreary on Elections and that author approves of it, and in the section of his work which follows observes:

> Of course, some weight is to be given to the decision of the judges of election, whose province it is in the first instance to admit or exclude votes.

It is also a well-established principle that all proceedings of boards of election officers are presumed to have been regular and according to law, and that this presumption of regularity can not be overthrown by invoking a mere technicality or by throwing a doubt upon the lawfulness of their proceedings. This view is expressed at section 762 of Paine on Elections in the following language:

> The presumption is always against the commission of a fraudulent or illegal act and in favor of the honesty and correctness of the official acts of a sworn officer. The true rule, while it may not require the exclusion of all reasonable doubt, does require clear and satisfactory proof of fraud or mistake before the legal presumption in favor of the correctness of the acts of sworn officers will be nullified.

The same doctrine is laid down under title of "Elections" in the American and English Encyclopedia of Law, in the following language:

> The presumption is in favor of the legality of elections and the regularity of the canvass. The law presumes the sworn officers to perform their duty honestly and faithfully.

Now, with the burden of proof upon him to show in a clear and satisfactory manner that the nonregistered persons voting at the Congressional election in his district, whose votes were cast unchallenged and were canvassed by the election officers, did not make the affidavits required by law, and thus throw out their ballots, to what kind of evidence does the contestant resort? With what character of testimony does he assail the presumption that officers of the election board took

the proper affidavits and seek to establish a neglect of duty upon their part in this particular?

If the officers of election failed to take the affidavits, why did he not call them as witnesses in this case and prove the fact? True, the law makes their failure to require such affidavits a misdemeanor, but it is believed that either under the laws of Pennsylvania or of the United States they could have been compelled to testify on this point, and that if they had done so they would have been exempt from prosecution for their neglect of duty.

The party challengers at the polls also knew whether these affidavits were made. The citizens present at the election also doubtless had information upon this point. The persons voting of all others knew whether they made the proper affidavits and their testimony could easily have been obtained, for it was not made an offense by the laws of Pennsylvania for them to vote without having made affidavits.

All these sources of positive information were easily accessible to the contestant, and yet he makes no effort whatever to make by means of them the clear and satisfactory proof which the law requires; but seeks to establish the fact that said affidavits were not made by an indirect, circuitous, and insufficient method.

The law of Pennsylvania requires, as appears from what has heretofore been stated, that, after the election officers shall have taken the affidavits of nonregistered voters, and canvassed the votes and announced the result, they shall make out triplicate returns and shall then place said affidavits in an envelope along with the list of voters, a tally sheet, and their oaths as election officers and deliver them to one of their number, designated as a return judge, and that he, not the board, shall deliver the same to the prothonotary's office, subject to examination as other election papers are.

The contestant introduces the certificate of this prothonotary, made on the 27th day of January, 1891, nearly two months after the election, which states that certain affidavits to which the certificate is appended are true and correct copies of the affidavits of voters at the election held on November 4, 1890, as the same are on file in his office at the first-named date, to wit, January 27, 1890, and he also introduces a deputy in the prothonotary's office who swears that these copies are copies of all the affidavits on file in the said office at such last-named date. There is no certificate or any direct proof of any character as to whether the affidavits certified to were all the affidavits that were originally filed in the prothonotary's office. In fact, the deputy expressly stated in his testimony (record, p. 74) that he did not know whether these certified affidavits were the only ones originally filed in said office or not. These affidavits so certified were less in number than the nonregistered voters who were shown to have voted at said election for the contestee. The argument of the contestant now is that the prothonotary is presumed to have kept safely in his office to the date of his certificate all the affidavits that were filed therein by the election judge immediately after the election, and that hence the certificate and proof that the affidavits were all that were on file at the date of the certificate establishes the fact that they were all the affidavits that were originally filed by the return judge. He further insists that the failure of the judge to file any other affidavits than these certified is evidence that no other affidavits were in fact taken by the board of election officers and overturns the presumption that they obeyed the law and required affidavits of all nonregistered persons who voted at the election.

In a few instances the prothonotary's certificate, under date of January 27, 1891, is as follows: "That the following is a true and correct copy of * * * affidavits of voters of ——— Borough at an election held on November 4, 1890;" but this fact is manifestly beyond his right, power, and jurisdiction as a public officer to certify, and this certificate can only be made competent by implying the words "as the same appears of record in my office," which leaves it substantially as the first certificate made by him and referred to above. If the officer possessed any actual knowledge as to what affidavits were made at the election held November 4, he could have appeared as a witness and testified to the facts orally, but he could only certify as an officer to the records on file in his office.

The foregoing was the only evidence given in this cause by the contestant that the nonregistered electors who voted for the sitting member had not made the affidavits required of them by law at the polls. It is true that the contestee in taking his testimony at entirely different voting districts, and perhaps in other counties than those resorted to by the contestant for his evidence, proved in a few instances that certain nonregistered persons who voted for the contestant did not make the affidavits required by law. This he did by the sworn testimony of the persons who voted for contestant, but, for obvious reasons, this does not in anywise help out the contestant in his proof. It may be remarked, however, in this connection that the contestee adopted the proper method of proving that nonregistered voters had not made affidavits. This only serves to show how easily the contestant, with the burden of proof resting upon him, could have made the clear proof necessary to be made by him that nonregistered voters for the contestee failed to make affidavits, if in point of fact they did fail to make them.

Now, the minority submit whether the certificate of the prothonotary that certain affidavits appeared on record in his office, a public one to which all persons had access, on January 27, 1891, and the oral testimony of his deputy that these were all the affidavits on file in the office at that time, satisfactorily establishes the fact that they were all the affidavits originally filed by the return judge. But, assuming that it does, the minority earnestly insist that this fact simply rebuts the presumption of the regularity of the action of the return judge in the filing of all the affidavits of the nonregistered voters, and does not reach back, as claimed by the contestant, and prove, either that the nonregistered voters did not actually make or that the officers of the election did not actually take the affidavits. The making of the affidavits by the voters was one thing, the action of the election officers in taking another, the delivering of the affidavits by the election officers to the return judge another, and the action of the return judge in filing them still another. The act of *taking* by the board and the act of *filing* by the return judge were separable and distinct acts. The taking of the affidavits may well have been done by the election officers, and yet the filing of them by the return judge may have been neglected. That the acts are separable and that the first may have been performed but the second neglected holds good whether the board and the return judge are considered as one official or as different officials. The affidavits may have been lost, mislaid, or deposited in the wrong place by the return judge. Indeed this would be the legal inference on its being shown that he had not filed them. To infer this would be to put upon him no additional presumption of having failed to perform his duty than already attaches to him by the certificate of the prothonotary that *the affidavits were not* filed by him.

The contestee is not required to prove that this improper disposition of the affidavits was actually made by the return judge, for the reason that the contestant has the burden of proving that the affidavits were not taken, and his having merely shown that they were not filed in the prothonotary's office does not establish the fact that they were not taken, does not discharge the burden of proof resting upon him, but only rebuts the presumption that the judge complied with the law by filing all the affidavits. In support of this position there is ample authority. The very point was discussed in the minority report in the Forty-ninth Congress in the contested-election case of Curtin *v.* Yocum, hereinbefore referred to. In this case there were three reports made; one by the majority, one by the minority, and one by certain members of the election committee. The House adopted the report of the minority and retained Mr. Yocum in his seat.

In this report so adopted by the House the minority expressly held that proof that the return judge of election failed to file the affidavits of nonregistered voters in the office of the prothonotary raised no presumption that the affidavits were not made by the voters and taken by the board of election officers, and that proof of the nonfiling of the affidavits only rebutted the presumption of regularity in the proceedings as to the filing. This doctrine is quoted in the American and English Encyclopedia of Law under the head of "Elections," at pages 431 and 432, Curtin *v.* Yocum being cited, and the author then lays down the law as follows:

> When a series of acts is required to be done by the officer, the fact that some were not done does not affect the presumption that the rest were done.

See also section 762 of Paine on Elections, where Curtin *vs.* Yocum is cited and where the doctrine is stated in the language following:

> The failure of the officers of election to return to the prothonotary's office the affidavits of nonregistered voters does not raise the presumption that they also failed to require such affidavits.

In conclusion it is submitted that in order to unseat the sitting member in this case and admit the contestant to a seat in this House it is necessary to assume that votes were cast by nonregistered voters in the Twenty-fourth Congressional district of Pennsylvania, who knew at the time they were casting them that they were doing so in violation of law; that their unlawful act was concurred in by the election officers, some of whom were of opposite politics to said voters, and all of whom violated their oaths and made themselves liable to criminal prosecution by so doing; and that the voters and challengers of opposite politics around the polls also consented to such illegal voting.

This assumption has to be made with the consciousness on the part of the House that the contestant, having upon his shoulders the burden of proving his right to his seat and of overturning the presumption of law in favor of a vote cast and canvassed without objection, and of the regularity of the proceedings of an election board which is presumed to have done its duty, has passed by a kind of evidence which was easily accessible to him, and which, if given, would have been clear and decisive upon the question at stake, and has introduced in support of his contention evidence of an exceedingly technical, inferential, and inadequate character. All this will have to be done, too, in a case where there has been no fraud, venality, coercion, or other reprehensible conduct on the part of the electors, where it is apparent that the votes objected to were those of electors possessing constitutional qualifications, and who, if in point of fact they did not comply with the provisions

of a registry law, failed to do so because of the general acquiescence in the right to vote of all persons present at the polls, including those of opposite politics to themselves. It will have to be done, also, with the full knowledge that there is a grave conflict in the authorities whether, even if the electors voted without making affidavits, that fact rendered their votes illegal in law.

The minority insist that no such action shall be taken and that no such precedent shall be established by this House, and they therefore recommend the adoption of the following resolutions, to wit:

(1) *Resolved*, That Andrew Stewart was legally elected to a seat in the Fifty-second Congress from the Twenty-fourth Congressional district of Pennsylvania, and that he is entitled to retain his seat in this House.

(2) *Resolved*, That Alexander K. Craig was not legally elected to the Fifty-second Congress from the Twenty-fourth district of Pennsylvania, and is not entitled to a seat in this House.

HENRY U. JOHNSON.
C. D. CLARK.
A. A. TAYLOR.
J. E. REYBURN.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 368.

ELECTION OF SENATORS.

FEBRUARY 16, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. TUCKER, from the Select Committee on the Election of President and Vice-President and Representatives in Congress, submitted the following

REPORT:

[To accompany H. Res. 90.]

Mr. Tucker, from the Committee on the Election of President and Vice-President and Representatives in Congress, submits the following report:

The joint resolution which has been referred back favorably by the Committee on the Election of President and Vice-President and Representatives in Congress is as follows:

JOINT RESOLUTION proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That in lieu of the first paragraph of section three of article one of the Constitution of the United States, and in lieu of so much of paragraph two of the same section as relates to the filling of vacancies, and in lieu of all of paragraph one of section four of said article one, in so far as the same relates to any authority in Congress to make or alter regulations as to the times or manner of holding elections for Senators, the following be proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States:

"The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

"The times, places, and manner of holding elections for Senators shall be as prescribed in each State by the legislature thereof.

"When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election, as the legislature may direct.

"This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution."

It seeks to change and annul the following provisions of the Constitution—Article I, section 3, clause 1:

The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof for six years; and each Senator shall have one vote.

It is proposed to change this so that it will read as follows:

The Senate of the United States shall be composed of two Senators from each State, *elected by the people thereof* for six years; and each Senator shall have one vote;

and adding thereto the qualifications of electors, providing that they shall be the same as those for Representatives in Congress. So much of

clause 2, section 3 of Article I as relates to the mode of filling vacancies is changed in the manner and form set forth in the proposed joint resolution.

ARTICLE I, section 4, clause 1 is as follows:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

It is proposed to abrogate and annul the above in so far as it gives to Congress any control, absolute or remote and contingent, over the election of United States Senators by substituting the following language or so much thereof as refers to the election of Senators:

The times, places, and manner of holding elections for Senators shall be as prescribed in each State by the legislature thereof.

In the resolutions proposed by Mr. Edmund Randolph, of Virginia, to the Federal convention for ratification it was provided—

5. *Resolved*, That the members of the second branch (the Senate) of the National Legislature ought to be elected by those of the first, out of a proper number of persons nominated by the individual legislatures, etc.

In the draft of a Federal Government by Mr. Chas. Pinckney, of South Carolina, it was provided that the Senate should be chosen by the House of Delegates (Representatives)—and in the draft submitted by Mr. Hamilton it was proposed to elect Senators to hold during good behavior—"their election to be made by electors chosen for that purpose by the people" (Elliott, I, 212). On agreeing to the fifth resolution of Mr. Randolph *nine States* voted nay, none voted yea, and one was divided (Jour. Fed. Con., 36).

On motion of Mr. Wilson (Pennsylvania) to elect Senators by the people, it passed in the negative—ten States voting *nay*, and Pennsylvania alone voting *yea* (Jour. Fed. Con., 106). Finally, June 25th, 1787, on motion to elect Senators by the legislatures of the several States it was agreed to—nine States voting *yea* and two States (Pennsylvania and Virginia) voting *nay* (Jour. Fed. Con., 147).

Representation in the Senate seems to have been one of the chief—if not *the* principal—causes of dissension in the Federal Convention—one party, led by Mr. Madison and others, insisting that representation should be proportionate to numbers and by districts, similar to the mode of representation in the House; the other party (the small States) insisting with equal pertinacity that the States, as States, should be the units of representation. The struggle was protracted, bitter, and passionate, and at one time it seemed as though the convention would go to pieces on this question. Better counsels finally prevailed and the small States were victorious, establishing the representation of the States, as such, as the units of representation.

Any amendment to the Constitution which sought to break down this initial principle in its construction would indeed be dangerous; this proposed amendment seeks only to emphasize that principle by giving the representation to the sovereign power in the State, rather than to the delegated power of that sovereignty as represented in the legislature.

I.

The change of mode of election of Senators from the legislature to the people, as proposed, has the sanction of almost a universal popular demand. This is not conclusive of the propriety of the proposed

change, but is strongly persuasive of the inadequacy of the present plan.

Your committee submit the following reasons for recommending the proposed change:

(1) The legislature, being a body of limited numbers, is more amenable to undue influence and the corrupting power of corporate aggressions and individual wealth than would be the entire population of a State.

The public press for years (in each recurring year) has been teeming with legislative scandals in the election of Senators until bribery and corruption are, we fear, in some localities, fast becoming recognized as a part of the legislative function, while the capacity of the pocketbook rather than that of the head is regarded in like places as the measure of Senatorial equipment. Committees of investigation and the grand juries of the States have been unwilling or unable to detect the frauds, so skillful have the manipulators of it become until, at last, an outraged public sentiment has become aroused and has found its just expression in the proposed amendment.

(2) *Power and responsibility* should go together, hand in hand. In a Republic like ours the representative of political power, for the good of the Republic, should be answerable for his acts to some *certain constituency*. To whom, we ask, is a Senator now answerable for his conduct? To the legislature? This body changes three times during his service. A Senator elected to-day for six years by a legislature comes back in six years seeking reëlection before another legislature composed of almost entirely new men. His pledges to the body that elected him are *nudum pactum* to the new legislature, which was not a party to the contract of his service or to his pledges.

(3) The States made the Constitution. It was a compromise between those in the Federal Convention who desired a strictly national government and those who strove for a purely federal union. The representation in the Senate was the result of the demand (an ultimatum) on the part of the smaller States, inasmuch as representation in the House of Representatives was to be proportionate to population, that in the Senate the States as such were to be represented. They were to be the units of representation. The State, as a political organization, is not represented by the legislature any more than it would be by the Judicial Department of the Government or the Executive. The ultimate sovereignty of the State rests alone with the people or with their accredited chosen representatives in convention assembled.

Surely, then, the creature (the legislature) is not the equal of the creator (the sovereign people), while the State, as a political organization, is more fitly represented by the sovereign power of the State than by one of the mere creatures of its sovereignty, and the plan proposed preserves the State as the unit of representation in the Senate, and at the same time leaves the choice to the people, who are the sovereign power in the State.

(4) It is the duty of the legislature of each State, by law, to lay off the legislative districts in the State. Under the present mode of election of Senators, the legislatures may be induced to make an unfair apportionment, and lay off unequal and unfair districts in order that the party temporarily in control in the legislature may reap the reward of the election of one of its partisans to the Senate and defeat the popular choice of the majority party in the State.

This system of gerrymandering a State is notorious, and the disposition to adopt it seems to be on the increase in many of the States. This

evil would be greatly modified by the adoption of the proposed amendment.

(5) State and Federal affairs should, as far as possible, be kept distinct and separate for the purity of each and the betterment of both. The administration of the local affairs of the people, in the protection of their personal and property rights and the maintenance of peace and good order in society, has most properly been reserved by the States to themselves. The point of contact, in our system of government, with the people, where personal rights are to be protected and the home guarded, is for the most part (as it ought to be entirely) with the State or local government. To the State legislatures, the law-making power of the several States, the people look to redress their local wrongs and protect their local rights.

These same legislatures, under the present system, possess the electoral function in the selection of Senators. The money which corrupts, by purchase, the member of the legislature for Senatorial elections has debauched him as a servant of the people he is sworn to serve in local legislation. The corporation that can enter the halls of a legislature and lay its unholy hands upon the members, claiming them as its own in the selection of a Senator, has already destroyed the hope of a pure administration of the local affairs of the people of that State by polluting the source from which such administration is derived. Under the specious guise of interest merely in the Senatorial election, legislatures are debauched and the purchased member in the Senatorial election can hardly pose as the *unbought* and *unpurchasable* tribune of the people's local rights. If the charges of corruption in Senatorial elections are true, the reflex action on the legislation in the States, incident to such corruption, must be immeasurable in its destruction of the rights and liberties of the people of the States.

II.

It is provided that such elections shall be held at the times, places, and in the manner as prescribed by the legislatures of the States.

(1) Corporate interference in the election of Senators and the corrupt use of money, as openly charged in the public press of the country and believed by many, have finally crystallized public sentiment in favor of the election of Senators free from any outside influence, whether it be *corporate*, *individual*, or *governmental*.

(2) This clause simply guarantees that the States shall elect their Senators in their own way, as to them may seem proper, without Federal supervision, as they have been elected since the foundation of the Government; for no attempt has ever been made in the history of the Government to apply Federal supervision to the election of Senators.

(3) If a condition of things could be imagined when it would be both constitutional and proper to apply Federal authority to the election of Representatives in Congress, we submit that its application to the election of representatives of sovereign States (Senators)—the units of constitutional organization—is a very different proposition.

III.

Where vacancies occur the executive of the State shall direct writs to issue for holding the election by the people to fill the vacancies; or, by law, the legislature may empower the executive to fill the same temporarily until an election can be had.

Under this clause the governor must order an election to fill the vacancy that has occurred. This preserves the principle of election by the people. In some States, however, in which there are annual elections, this would be a hardship, for the vacancy would in most cases not be of long duration, and to add another State election would be imposing an unnecessary expense on the people, so that the proviso was thought to be wise by which the governor may be empowered to fill the vacancy "until the people fill the vacancy by election, as the legislature may direct."

Under this provision in a State where there are biennial elections the legislature might direct that if a vacancy occurred within a year [or any other period it might fix] after the election, the vacancy should be filled by an election by the people; but if the vacancy occurred more than a year after the election the vacancy should be filled by executive appointment. This optional feature in the filling of vacancies was as far as your committee deemed it prudent to go in this direction.

IV.

That the title of no Senator may be affected who at the time of the adoption of the amendment holds his seat at the hands of the legislature of his State as now provided by the Constitution, the last provision is inserted out of abundant caution.

Finally, we submit this amendment, not in the belief that it is a cure for all the evils complained of by the people, but with confidence that it will eradicate many such evils and will have a healthful tendency to check the increase of others. That better men will *in all cases* be selected we do not claim or hope for, but the wholesome influence on political parties of the knowledge that from the nominating convention the appeal will be made direct to the people for their suffrages, none will deny; and the bribe-giver and the corruptionist will not dare to face the scorn of an enlightened constituency, even though by intrigue and fraud he could compass his nomination in convention.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 370.

WILLIAM H. QUINN.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2573.]

The Committee on Claims, to whom was referred the bill (H. R. 2573) for the relief of William H. Quinn, submit the following report:

That the facts upon which this claim is based sufficiently appear in the findings of fact by the Court of Claims in William H. Quinn *vs.* The United States, which are below given in full and made a part of this report.

Your committee are of opinion that the claim is a just one and do therefore report the bill back with the recommendation that the words "four thousand," in line 6, be stricken out, and the words "nine hundred and forty" be inserted in their stead, and as so amended that the bill do pass.

[Court of Claims. Congressional Case No. 295. William H. Quinn *vs.* The United States.]

FINDINGS OF FACT.

At a Court of Claims held in the city of Washington on the 19th day of December, A. D. 1887, the court filed the following findings of fact, to wit:

The claim in the above-entitled case was transmitted to the court by the Committee on Claims of the House of Representatives on the 10th day of February, 1885.

James H. Embry, esq., appeared for claimant, and the Attorney-General, by F. P. Dewees, esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing on its merits on the 6th day of December, 1887, the court, upon the evidence and after considering the briefs and arguments of counsel on both sides, finds the facts to be as follows:

I.

The claimant was appointed a drawkeeper at the Anacostia or Navy-Yard Bridge over the Eastern Branch of the Potomac in October, 1869, and continued in said capacity until May, 1878, and received compensation as drawkeeper at the rate of $720 per annum. He was without an assistant until July 1, 1874.

The following letter defined his duties at the time of his appointment:

OFFICE OF PUBLIC BUILDINGS, GROUNDS, AND WORKS,
Washington, D. C., October, 1869.

SIR: You are hereby directed to take charge of the Navy-Yard Bridge. It will be your duty to keep the floor of the same in good condition, free from breaks and holes, to keep it at all times *clean*, and for this purpose it will be swept *at least* once a day, *to prevent fast driving over the bridge, to* prevent all accidents or damage, as far as

is possible, and in general to keep a strict watch over it at all times, and for this purpose you had better live somewhere in the immediate vicinity of the bridge.

Very respectfully,

TIMOTHY LUBERRY,
Superintendent in charge of Bridges.

Mr. WM. C. QUINN,
Bridge-keeper.

II.

While so employed, in pursuance of instructions, he exercised constant supervision over the Anacostia Bridge, and also over Bennings Bridge, 2 miles above, and in the discharge of these duties he made all estimates for the constant repairs of both bridges, purchased and inspected all material, employed all mechanics and laborers and kept their time, supervised their work, and witnessed their payment.

III.

When the new Anacostia Bridge was built under contract, in 1874 and 1875, the claimant represented the Government as inspector in seeing that all the requirements of the contract were complied with, both in the materials used and in the construction of the bridge, from the driving of the piles to the completion thereof. His time was fully occupied, and in many instances he was required to be on duty at night when the work was going on. For all of the services enumerated on the two bridges he has never received compensation beyond his salary as drawkeeper.

IV.

The condition of the two bridges, during claimant's term as drawkeeper, was such that his time was largely occupied in the work of supervision and inspection and in the purchase of materials and employment of mechanics and laborers. The draw at the Navy-Yard Bridge required only occasional service, and Bennings was not a drawbridge.

V.

The services of claimant were necessary and useful, and if he had not been so employed, some other superintendent and inspector would have been indispensable to the proper care and necessary repairs of the two bridges.

VI.

In 1870 his additional service did not begin till December. For the years 1871, 1872, and 1873 the additional service was reasonably worth $100 per year, at the same time taking into consideration the fact that he was in the Government employment and not fully occupied. For the years 1874 and 1875, when the new Anacostia Bridge was building, and the claimant acted as inspector both as to work and materials, and superintended the driving of the piles, being frequently on duty at night, the additional service was reasonably worth $200 a year. For the years 1876 and 1877, and until May, 1878, the additional service in supervising both bridges was reasonably worth $100 a year, amounting in all to $940.

VII.

The claimant applied to Gen. Babcock, while he was Commissioner of Public Buildings, for additional compensation, and was informed that it would be approved by him, but would require the action of Congress. He subsequently applied to the present Commissioner of Public Buildings (Col. Casey), who decided, with the approval of the War Department, that the claim was barred by provision of the Revised Statutes, section 1765.

BY THE COURT.

Filed December 19, 1887.
A true copy.
Test, this 25th day of January, A. D. 1888.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 371.

GAUGERS AND OTHER INTERNAL-REVENUE EMPLOYÉS.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 569.]

The Committee on Claims, to whom was referred the bill (H. R. 569) for the relief of certain gaugers and other internal-revenue employés who have been assigned to duty and rendered service before the date of their qualification, having considered the same, submit the following report:

This bill simply gives the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, authority to audit and settle certain accounts of gaugers who, under assignment, performed their duties before the date of their official qualification.

The Department should have authority to settle all such cases.

This bill meets the approval of the Treasury Department, as the following letter will show:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, May 1, 1886.

SIR: House bill No. 7785, "for the relief of certain gaugers and other internal-revenue employés," etc., meets my approval. It was prepared after consultation with Mr. Henderson, who introduced it, and is intended to authorize the payment of a few meritorious claims which the technical terms of the law did not warrant.

Very respectfully,

JOS. S. MILLER,
Commissioner.

Hon. WM. M. SPRINGER,
Chairman Committee on Claims, House of Representatives.

Your committee are of the opinion that this bill should pass, and so recommend.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 372.

JOHN B. READ.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 4016.]

The Committee on Claims, to whom was referred the bill (H. R. 4016) for the relief of John B. Read, submit the following report:

In the year 1856, when rifled ordnance of large caliber did not exist in the United States or in any country, Dr. John B. Read secured a patent, dated October 28, 1856, for an elongated rifle projectile, with a wrought-iron cup or sabot at the base, for expansion into rifle grooves, so as to secure rotation. Early in the same year he had experimented, at Fort Monroe, with a two-grooved 24-pounder rifle gun, with such favorable results as to secure a contract with the Secretary of War that, on condition of his assigning the free use forever of such projectiles to the United States, he should receive such compensation, in case of adoption, as a board of Army officers, to be appointed for the purpose, might decide to be just. A joint resolution was passed the first session of the Fiftieth Congress authorizing the Secretary of War to appoint such a board, which, after careful investigation of the case, made its report to the Secretary of War and was by him transmitted to Congress.

These projectiles were extensively used at the outset of the war, and were furnished the United States by R. P. Parrott from West Point Foundry, with iron sabots, according to Dr. Read's patent.

The board of officers decided that Dr. Read "has a just claim for a reasonable royalty upon those projectiles furnished to the United States by R. P. Parrott, which were covered by his (Read's) patent of October 28, 1856; and that the sum of $17,000 is the proper amount to be paid by the United States to Dr. Read, in full satisfaction of his claim."

Your committee therefore recommend that the bill be amended by striking out the words "one hundred and" in fifth line, and as so amended it do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 373.

HENRY SETZER.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 4807.]

The Committee on Claims, to whom was referred the bill (H. R. 4807) for the relief of Henry Setzer, beg leave to submit the following report:

In May, 1879, Henry Setzer was assessed by the collector of internal revenue, sixth district of North Carolina, in the sum of $354.60 for taxes on spirits produced in November and December, 1877. The same spirits were seized and sold subject to tax.

The report of Setzer shows that a seizure was made of 502 gallons of brandy January 8, 1878, which was sold March 15, 1878, subject to tax.

On July 30, 1879, Mr. Setzer made claim for abatement on the ground that the brandy was forfeited and sold, and the tax paid from the proceeds. This claim was rejected by the Commissioner of Internal Revenue, March 18, 1880. Mr. Setzer was thereupon required to pay the assessments, together with penalty, amounting in the aggregate to $386.46, which he did under protest. It has since been decided by the Supreme Court of the United States, October term, 1883 (United States *v.* Ulrici, 111 U. S., 38), that the payment of the tax on the spirits relieves the distiller from any liability to pay it the second time.

The committee report back the bill and recommend that it do pass.

We append the accompanying letters bearing upon this bill, and make them a part of this report.

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, FIFTH DISTRICT, NORTH CAROLINA,
Salisbury, June 7, 1887.

SIR: Replying to your letter of May 4, I am sorry to inform you that all of the information I can get you in the case of Henry Setzer is as follows:

On May, 1879, list, page 1, line 9, I find Henry Setzer assessed for a "tax on brandy, November and December, 1887, $354.46." Record 1 shows that this amount, together with penalty, amounting in the aggregate to $386.46, was paid by him on May 1, 1880. There is no evidence in office of claim for abatement having been filed. I have also searched for record of seizure, but have been unable to find the record 44 of that date.

Respectfully,

J. H. MCREE.

GEO. H. BROWN, Esq.,
Statesville, N. C.

STATESVILLE, N. C., *June 22, 1888.*

DEAR SIR: During the year 1877 I was a brandy distiller, sixth district, North Carolina, duly registered and bonded, and after having made several hundred gallons of

spirits, and while waiting for the gauger to come around and gauge the same, a party of special revenue deputy collectors came to my distillery and seized and carried away all the spirits, which were forfeited and sold; the tax, 90 cents per gallon, was paid to the Government from the proceeds of the sale. Afterwards the gauger came around and asked for my returns, which I made, all the time claiming that the distillery had not been closed and that the seizure was illegal, and no brandy, being reported by the gauger, I was afterwards assessed for the tax on the amount reported produced, which was the identical spirits seized, and notice given me by Collector Mott of the assessment. I protested against its payment, and he allowed me to file a claim for abatement, which was sometime afterwards disallowed, and I paid the tax and penalty, $386.46, the tax being twice paid to the Government on the same spirits.

I have been informed that the Supreme Court of the United States has since decided a case in point with mine, that the tax could not be legally collected but once. I never filed a claim to refund the amount, as I have been informed that such claims must be filed within two years after payment.

I would now respectfully ask that you introduce a special act to refund to me the amount paid.

I inclose a letter from the collector's office giving some information bearing on the subject, and suppose that the report of seizure and sale, also the returns made by me as distiller, and the claim for abatement of the tax can be had by application to the Internal Revenue Office at Washington, D. C.

Very respectfully,

HENRY SETZER.

Hon. JOHN S. HENDERSON, *Washington, D. C.*

TREASURY DEPARTMENT. OFFICE OF INTERNAL REVENUE,
Washington, August 17, 1888.

SIR: In reply to your verbal inquiries in the case of Henry Setzer, who desires relief from certain taxes assessed against him in 1879, you are advised that it appears from the records of this office that Mr. Setzer was assessed on the May list, 1879, sixth district of North Carolina, $354.60, for taxes on spirits produced in November and December, 1877. This sum is referred to in correspondence with Collector Mott on the subject, as tax on spirits which were seized and sold subject to tax.

The report of the seizure shows that a seizure was made of 502 gallons of brandy from Mr. Setzer, January 8, 1878, which was sold March 5, 1878, subject to tax.

On July 30, 1879, Mr. Setzer made claim for abatement of the assessment on the ground that the brandy was forfeited and sold and the tax paid from the proceeds. This claim was rejected March 18, 1880.

It has since been decided by the Supreme Court, October term (U. S. *v.* Ulrici, 111 U. S., 38; 30 Int. Rev. Rec., 111), that the payment of tax on the spirits relieves the distiller from liability to pay it the second time.

There is now no authority in this office to refund the amount paid if it was certain that it was a second payment. It can only be done by special act of Congress.

Mr. Setzer's letter is returned herewith.

Respectfully, yours,

JOS. S. MILLER,
Commissioner.

Hon. JOHN S. HENDERSON,
House of Representatives, Washington, D. C.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 374.

CLAIMS OF CERTAIN CITIZENS OF JEFFERSON COUNTY, KY.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1126.]

The Committee on War Claims, to whom was referred the bill (H. R. 1126) for the allowance of certain awards made by a board of claims to certain citizens of Jefferson County, Ky., submit the following report:

A bill providing for the payment of the claims mentioned in this bill passed this House in the Fiftieth Congress, was amended and favorably reported in the Senate, but was not reached for consideration. It was introduced again in the Fifty-first Congress and received the approval of the Committee on War Claims, as it had been modified to meet the views of the Senate Committee on Claims of the Fiftieth Congress. It is in its present form, as your committee think, unobjectionable, and in justice to the claimants ought to pass.

Your committee report back the bill, adopt as its own the statement from previous reports, and recommend that the bill do pass.

The statements referred to are as follows:

The Committee on Claims, to whom was referred the bill (H. R. 328) for the allowance of certain awards made by a board of claims to citizens of Jefferson County, Ky., submit the following report thereon:

The award was made under the authority of an order issued by General Jef. C. Davis, commanding the Fourteenth Army Corps, July 14, 1865. The part of the order relating to the present claim reads as follows:

SPECIAL ORDERS, No. 110. } HEADQUARTERS FOURTEENTH ARMY CORPS, *Louisville, Ky., July 14, 1865.*

[Extract.]

IV. A board of officers is hereby appointed to meet at the headquarters of Second Brigade, First Division, Fourteenth Army Corps, to-morrow, July 15, at nine (9) a. m., or as soon thereafter as practicable, to examine, determine, and assess the amount of damages and loss sustained by the owners of property upon or near which the Fourteenth Army Corps has been encamped during the last month. Detail for the board:

Bvt. Brig. Gen. George P. Buel.
Col. Thomas Shea, Twenty-second Indiana Veteran Volunteer Infantry.
Maj. James S. Crall, Eighty-second Ohio Veteran Volunteer Infantry.
Capt. Gideon W. Gifford, Fourteenth Michigan Veteran Volunteer Infantry.

The board will sit without regard to hours, and, as far as practicable, they will notify the parties interested of their times and places of session. When necessary, division and brigade quartermasters will be called upon to state what troops or trains have caused the damage inflicted.

* * * * * * *

By command of Bvt. Maj. Gen. Jef. C. Davis.

A. C. MCCLUNG,
Assistant Adjutant-General and Chief of Staff.

Under this order the several claimants presented itemized accounts of the damages and losses alleged to have been sustained by them, and the accounts were considered and acted upon by the board. The report was promptly forwarded through the proper channels to the War Department, and it there remained without action until it was sent to the chairman of the House Committee on War Claims, in February, 1886, by the present Secretary of War. The amounts allowed to each claimant are set forth in the bill. Many of the items for which relief was claimed were disallowed because they were not within the rule usually followed in cases of this sort. The only relief that could be granted was for property actually taken and used for the purposes of the Army. Sworn statements are before the committee from Col. Thomas Shea and Lieut. Col. N. B. W. Harman, who took the place of Captain Gifford, two of the officers who had served on the board, in which they state that they made allowance only for such property as was by law and Army Regulations authorized to be taken, used, and paid for by the Government, and they seem to have followed the rule which Congress has heretofore recognized in such cases. The losses occurred after the active operations of the war had ceased, but before the official date of its termination, and it seems proper that the claimants should have relief.

The War Department took no action upon the report made by this board, and the claimants delayed their appeal to Congress for many years, relying, as they state, upon the faith of the award and the belief that their claims would be passed upon without further action on their part. In March, 1872, the claim of Isaac Everett, one of the original claimants, was presented to the War Department and remained there until July, 1874, without action, when, being satisfied that he could get no relief without an appeal to Congress, he withdrew his application. Subsequently the matter was brought before Congress.

The present bill was reported on favorably in the House at the first session of the present Congress, and passed the House of Representatives May 11, 1888. The committee think the parties are entitled to relief, but that the claims should be further investigated in the office of the Quartermaster-General, and such amounts paid to them as they are justly entitled to.

Some proof has already been produced as to the loyalty of the parties, but this also should be further inquired into.

In order that this may be done, the committee recommends that the claims included in the award be referred to the Secretary of War for proper investigation in his Department. To accomplish this the following amendment should be made to the bill:

Insert after line 38, in first section, "*Provided*, That before any of the said amounts are paid, the claims of the parties herein named shall be referred to the Secretary of War to find and determine whether or not the United States received the benefit of the articles and supplies for which compensation was allowed by said board; whether the prices fixed were fair and just, and whether the several claimants were loyal to the United States during the late civil war; and he is authorized to ascertain and determine what sum, if any, is justly due to each of said parties on account of the claims examined and allowed by the said board and herein included."

In section 2 insert after line 2 and before line 3, "found to be due in the manner mentioned in the foregoing section."

When thus amended the committee recommend that the bill do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 375.

G. DWIGHT HAMILTON.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1119.]

The Committee on War Claims, to whom was referred the bill (H. R. 1119) for the relief of G. Dwight Hamilton, respectfully report:

This bill was favorably reported by the war claims committees of the Fiftieth and Fifty-first Congresses, but was never reached for consideration. The committee report back the bill with the expression of opinion that it ought to pass.

For the information of the House they subjoin the report made to the Fiftieth Congress.

The Committee on War Claims have considered this bill for the relief of G. Dwight Hamilton. They find that Hamilton enlisted in the Army in 1861 as a private in the Eighth New York Cavalry. He arose by degrees from private to corporal, from corporal to sergeant, and on the 25th day of June, 1863, he was commissioned by Governor Horatio Seymour as second lieutenant, but was not mustered. He, however, served in that capacity from June 25, 1863, to April 26, 1864; indeed, nearly the whole time he was in full command of his company, owing to vacancies in the office of first lieutenant and captain of the company. Notwithstanding the fact that he was the regular and recognized officer and performed all the duties, and was entitled by virtue of service to all the pay and emoluments of that rank, he only received compensation as a sergeant. He served his country faithfully and gallantly, passed through all the grades from private to captain, and was after the close of the war, in June, 1865, mustered out of the service as a brevet major.

Congress, by an act approved June 3, 1884, endeavored to remedy wrongs like this, by which soldiers were to be paid for the services actually rendered by them, although they might not have been mustered into the rank to which they were entitled. For some reason to the committee unknown a proviso in the act restricted its operation to officers whose commissions were dated prior to June 20, 1863. We do not think that claimant should go without relief simply because his commission bears a date only five days after the fixed date, June 20, 1863. Hamilton's commission is from June 25, 1863.

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the "so-called Confederate States, or who should have been, or might hereafter be, convicted of rendering any aid or comfort to the enemies of the United States." The order declared that those funds would "be *held* and *accounted* for by the Quartermaster's Department, *subject* to the *future* adjudication of the Government of the United States."

Under and in obedience to this order the branch of the Louisiana State Bank paid over to the acting quartermaster the balance standing on its books to the credit of Grivot, who came within the terms of the order. February 26, 1867, proceedings were instituted against the bank by Maurice Grivot to recover the money thus paid under the military order by the bank to the acting quartermaster. The case terminated in the Supreme Court against him, on the ground that the military order justified the bank in making the payment. The case is reported in 24 Louisiana Annual Reports, page 265. The original claimant died March 5, 1875, leaving as his sole heir his daughter, Laura Grivot. She died a few years afterward, but the date of her death does not appear in the record.

April 30, 1879, Marie Emma Nicholas and Anne Elodie Jaques were recognized as the sole heirs of Laura Grivot, and through her of Maurice Grivot, and in a proceeding under the laws of Louisiana in the second district court for the parish of Orleans, it was ordered that they be put into possession of the succession of Laura Grivot according to law, and they afterward presented the claim descending to them from their ancestor to the Congress.

The order of the commanding general directed the fund "to be held and accounted for by the Quartermaster's Department, subject to the future adjudication of the Government of the United States." And the Chief Quartermaster in his order designating an acting quartermaster as the officer to receive the funds included in the terms of the general order directed him "to hold this money and account for it to the United States Treasury."

The following extract from a letter from Secretary Folger to a former member of this committee shows that the Government received the benefit of the money.

TREASURY DEPARTMENT, *February 10, 1882.*

SIR: I have received your letter of the 28th ultimo, transmitting bill (S. 392) "For the relief of the heirs of Maurice Grivot," and making certain inquiries. Upon examination of the records of this Department it appears that in the month of August, 1863, Capt. J. W. McClure, A. Q. M., seized from the Louisiana State Bank, of New Orleans, under General Order No. 202, the sum of $28,293.11, in par funds, and $8,652.01 in Confederate funds. In the receipt given by him to the bank—a copy of which is on file with his accounts, are set forth the names of the depositors, and the respective amounts standing on the books of the bank to their credit. The par funds are credited to certain depositors, among them M. Grivot, who is credited with $962.85. The Confederate funds are also credited to certain depositors, including $611.94 to M. Grivot.

The par funds, with like funds received from other banks, amounting in the aggregate to $44,692.43, were taken up by Captain McClure in his account current for August, 1863, and expended by him for the ordinary purposes of the Quartermaster's Department, and have not been covered into the Treasury.

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CHAS. J. FOLGER,
Secretary.

Hon. ANGUS CAMERON,
Chairman Committee on Claims, United States Senate.

The present bill proposes to return to the heirs of said Grivot the sum of $962.85, being the amount received by the Government from the bank in par or current funds, no demand being made for the amount turned over by the bank in Confederate funds.

The only question raised by the facts and circumstances above detailed is whether there is any duty or obligation, legal or equitable, on the part of the Government to return or pay over to the heirs of Grivot the amount of *par funds* belonging to him which were received from the bank.

The proceedings against the bank instituted by their ancestor having failed, the claimants can look only to the Government for reimbursement, and the merit of their claim depends upon the validity of said Order No. 202, under which the representatives of the Government took the money. The purpose of the order was not to supply military wants and necessities, but simply to impound and confiscate the moneys of persons registered as enemies of the United States. The Supreme Court has passed upon this question in the case of the Planters' Bank *vs.* Union Bank (16 Wallace, 494), and the following extract from this case shows the reasoning upon which the court rested its judgment:

"The validity of the order is, therefore, the first thing to be considered. It was made, as we have seen, on the 17th of August, 1863. Then the city of New Orleans was in quiet possession of the United States forces. It had been captured more than fifteen months before that time, and undisturbed possession was maintained ever after its capture. Hence the order was no attempt to seize property '*flagrante bello*,' nor was it a seizure for immediate use of the Army. It was simply an attempt to confiscate private property, which, though it may be subjected to confiscation by legislative authority, is, according to the modern law of nations, exempt from capture as booty of war. Still, as the war had not ceased, though it was not flagrant in the district, and as General Banks was in command of the district, it must be conceded that he had power to do all that the laws of war permitted, except so far as he was restrained by the pledged faith of the Government or by the effect of Congressional legislation. A pledge, however, had been given that rights of property should be respected. When the city was surrendered to the army under General Butler, a proclamation was issued, dated May 1, 1862, one clause of which was as follows: '*All the rights of property of whatever kind will be held inviolate*, subject only to the laws of the United States.' This, as was remarked in the case of the *Venice* (2 Wallace, 258), 'only reiterated the rules established by the legislative and executive action of the National Government in respect to the portions of the States in insurrection occupied and controlled by the troops of the Union.'

"That action, it was said, indicated the policy of the Government to be, not to regard districts occupied and controlled by national troops as in actual insurrection, or their inhabitants as subject in most respects to treatment as enemies. Substantial, complete, and permanent military occupation and control was held to draw after it the full measure of protection to persons and property consistent with a necessary subjection to military government. We do not assert that anything in General Butler's proclamation exempted property within the occupied district from liability to confiscation as enemy's property, if in truth it was such. All that is now said is that after that proclamation private property in the district was not subject to military seizure as booty of war. But admitting, as we do, that private property remained subject to confiscation, and also that the proclamation applied exclusively to inhabitants of the district, it is undeniable that confiscation was possible only to the extent and in the manner provided by the acts of Congress. These acts were passed on the 6th August, 1861, and on the 17th July, 1862.

"No others authorized the confiscation of private property, and they prescribed the manner in which alone confiscation could be made. They designated Government agents for seizing enemies' property, and they directed the mode of procedure for its condemnation in the courts. The system devised was necessarily exclusive. No authority was given to a military commandant, as such, to effect any confiscation. * * * It is therefore of little importance to inquire what, under the general laws of war, are the rights of a conqueror, for during the recent civil war the Government of the United States asserted no general right in virtue of conquest to compel the payment of private debts to itself. On the contrary, it was impliedly disclaimed, except so far as the acts of 1861 and 1862 asserted it. These enactments declaring that private property belonging to certain classes of persons might be confiscated, in the manner particularly described, are themselves expressive of an intent that the rights of conquest should not be exercised against private property except in the cases mentioned and in *the manner pointed out*. * * * It follows, then, that the order of General Banks was one which he had no authority to make, and that his direction to the bank to pay to the quartermaster of the Army the debt due the Planters' Bank was wholly invalid.

"The committee has followed substantially the reasoning of the former reports, and close with the language and conclusion of the report made in the Forty-seventh Congress (No. 789), prepared by Mr. Jackson, of Tennessee, which was again made by him in the Forty-ninth Congress (No. 68).

"The Supreme Court having thus decided that the attempt of the commanding general of the department to enforce by military orders the confiscation acts of Congress against the property and effects of rebellious citizens of the United States was without authority and invalid, and it further appearing that there has never been any judicial procedure for the condemnation of the funds thus seized, as directed and required by the confiscation acts of 1861 and 1862, so as to divest and defeat the private rights and interests of the owner, it follows that the United States acquired no valid title under that seizure to the money of Grivot, who before his death received full and complete amnesty from the Government, which removed the only ground on which confiscation or an actual divestiture of his interests could be predicated. The possession obtained by the Government under the unauthorized order of its commanding officer conferred upon it *no higher* or *stronger right* to this fund than that acquired by a seizure under the captured and abandoned property act.

"The Government simply got possession of the fund, with the right to have it condemned and confiscated in the *exclusive* mode and manner directed and prescribed by

the confiscation acts of 1861 and 1862, but before exercising this right, which was necessary to a valid divestiture of the owner's title and to perfect its own, the Government confers upon the owner complete amnesty for all the past offenses which entitled it to confiscate the fund. This grant of amnesty was a voluntary surrender and abandonment by the United States of its right to complete and perfect that judicial condemnation of the fund which was necessary to defeat the owner's interest. Having been pardoned before any legal and valid divestiture of his rights was had, the acts of Congress and the decisions of the Supreme Court entitled the owner or his legal representatives to the full benefit of a restoration of his property as completely as though no seizure had ever been made or military confiscation attempted.

"Under the authority of Armstrong *vs.* United States (13 Wallace, 154) and Pargoud *vs.* United States (13 Wallace, 156) the claimants in the present case, if they could sue the Government, would be entitled to recover this fund. Will Congress deny to them, simply because it has the power to withhold, what the courts of the United States would allow as a valid right? To do so would be the exercise of a punitive power, destructive of the rights which the clemency of the executive department has lawfully restored. It would present a singular anomaly for Congress to deny rights recognized by the judicial and executive departments of the Government.

"Your committee, therefore, consider that the money belonging to Grivot, to the extent of $962.85, received, as aforesaid, by the Government in par funds, should be restored to his heirs at law, and they accordingly recommend the passage of the bill."

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 377.

ESTATE OF JAMES S. CLARK, DECEASED.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3578.]

The Committee on War Claims, to whom was referred the bill (H. R. 3578) for the relief of the estate of James S. Clark, deceased, submit the following report:

This measure was considered by this committee in the Forty-ninth Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 2738, Forty-ninth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2417) for the relief of James S. Clark & Co., having had the same under consideration and examined the same, submit the following report thereon:

The bill for the claimants' relief provides for the payment to them of the net proceeds of 900 bales of cotton, which were taken from their possession by the Treasury agents of the United States at Mobile, Ala., in the months of July and August, 1865. The claim has heretofore been the subject of Congressional action in both the Senate and House of Representatives.

At the second session of the Forty-seventh Congress this committee submitted a report thereon (No. 2031), but the bill which accompanied that report was not reached for consideration or action by the House.

At the first session of the Forty-eighth Congress the Committee on Claims of the Senate, having examined the claim, submitted a report thereon (Report No. 457), but the bill was never reached for consideration in the Senate.

At the present session of Congress a similar bill was presented in the Senate, and the conclusions reached in the former report of the Senate have been affirmed by the present Committee on Claims of that body in Senate Report No. 100, which was submitted on the 17th of February, 1886.

Your committee, having examined said report, concur in its conclusions, with the exception hereinafter stated. The Senate report, which is hereby adopted by your committee, is as follows:

This claim was considered by the Senate Committee on Claims, and was favorably reported (Report No. 457) at the first session of the Forty-eighth Congress.

Your committee adopt that report, which is as follows:

The Committee on Claims, to which was referred the bill (S. 1384) for the relief of James S. Clark & Co., respectfully reports:

A bill for the relief of the claimants, similar to the one under consideration, was reported favorably by the House Committee on War Claims at the second session of the Forty-seventh Congress.

The following is a copy of the report:

[House Report No. 2031, Forty-seventh Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 4286) for the relief of James S. Clark & Co., report back said bill, and submit the following report thereon:

The facts in this case, which have been "judicially ascertained" by the Court of Claims, are as follows:

First. That in July and August, 1865, the claimants, James S. Clark and Edward Fulton, together with Joseph C. Palmer, were the owners, jointly, of 900 bales of cotton, which was consigned by them to T. C. A. Dexter, surpervising special agent of the United States Treasury Department at Mobile, in the State of Alabama, in the last part of said July or the first part of said August.

Second. That the said cotton was so consigned to said Treasury agent by the claimants, because the Government at that time had charge of the railroads and other means of transportation to Mobile; and the use of such means of transportation was necessary in order to facilitate the arrival of said cotton at Mobile, and upon its arrival there it was claimed of him by the claimants.

Third. That in August, 1865, the said Treasury agent, having received orders from the Treasury Department to ship *all cotton received by him*, shipped the said 900 bales of cotton to Simeon Draper, United States cotton agent in New York, where it arrived and was sold by the United States, and the *net proceeds* thereof, amounting to the sum of $127,350, were paid into the Treasury of the United States.

Fourth. That during the late rebellion the claimants resided in the city of New Orleans, State of Louisiana.

In addition to the above facts your committee find, as a fact established by the evidence taken in said cause, that the claimants did not, nor did either of them, give any aid or comfort to the late rebellion.

The claimants instituted their suit in the Court of Claims on the 27th day of March, 1872, and the defense there interposed, aside from a contest in regard to the facts, was the statute of limitations. There were two pleas of the statute of limitations interposed by the United States to claimants' right to recover, as follows:

First. That the claimants did not prefer their claim to the proceeds of said cotton within two years after the suppression of the rebellion. This plea was based upon the third section of the act of March 12, 1863 (12 Stat. L., p. 820).

Second. That the claimants did not file their petition in the Court of Claims within six years after the claim accrued.

This plea was founded on the tenth section of the act of Congress for the reorganization of the Court of Claims, approved March 3, 1863 (12 Statutes at Large, page 765). The case was twice argued in the Court of Claims before four of the judges of said court, and at each of the said trials the court was equally divided in regard to the sufficiency of said pleas as a defense to said action.

In the Supreme Court the case was argued before seven judges, and the judgment of the Court of Claims, adverse to the claimants, was there affirmed, with Justices Field, Miller, and Bradley dissenting.

Your committee can not doubt that the conversion of the claimants' cotton to the use of the United States, under the orders of the Secretary of the Treasury, was an unlawful act, and that the retention by the United States of the proceeds resulting from the sale of the claimants' cotton is also illegal, unjustifiable, unwarranted, and without right.

The following statutes conferred the only right that existed, aside from the laws of war, to seize private property on land during the late rebellion:

First. The nonintercourse act of July 13, 1861 (12 Statutes at Large, sec. 5, page 257). There was no suggestion that the title to the claimants' cotton had been acquired in violation of the provisions of that law; and even if such suggestion had been made, a sufficient answer would have been found in the fact that on the 13th of June, 1865, the President of the United States had declared "that all restrictions upon internal, domestic, and coastwise intercourse and trade, and upon the removal of products of States heretofore declared in insurrection are annulled, and that they be forthwith removed." (See 13 Statutes at Large, page 763.)

Second. The claimants' cotton was not liable to seizure under the act of Congress approved August 6, 1861 (12 Statutes at Large, page 319), because it was not properly used in aid of the rebellion with the consent of the owner.

Third. It was not liable to seizure under the confiscation act approved July 17, 1862 (12 Statutes at Large, page 590), because the claimants gave neither aid nor comfort to the rebellion.

Fourth. The Treasury agents had no right to take the claimants' cotton under any authority conferred by the act of March 12, 1863 (12 Statutes at Large, page 820), because it was neither "abandoned nor captured"; and even if those officers had any right at any time to take the claimants' cotton, that right and authority was terminated on the 30th day of June, 1865, by virtue of the regulations issued by the Secretary of the Treasury, dated June 27, 1865 (McLeod *vs.* Collicott, Johnson's Report, Chase's Decisions, 443–447).

Fifth. If, as the Supreme Court declared in the cases of Mrs. Alexander's cotton (2 Wallace, page 420) and Lamar *vs.* Browne (92 U. S., page 194), the claimant's cotton was the lawful subject of capture during the rebellion because of its peculiar characte

and use as "one of the main sinews of war," then it may, with propriety, be answered that this right of capture was never exercised in respect to the claimants' cotton; and even if that right did exist during the period of the rebellion, it could not be exercised after the military power, which sustained the rebellion, was overthrown.

The seizure of such property upon grounds of public necessity, after that time, could not be justified. It is only public necessity that ever justifies the seizure of private property for public use. The existence of the rebellion created the necessity, and the peculiar character of this property as the chief means of sustaining the rebellion furnished the justification for its seizure by the United States; but the right to seize such property for these reasons did not survive the overthrow of the military and naval power of the rebellion. No nation would be justified in the continued use of such a right after the causes which authorized the exercise of such a power had ceased to exist. If the United States had continued to exercise this power after the armed forces of the rebellion had surrendered, it would have brought upon itself the just condemnation of all civilized nations; it would have violated the generous principles and just obligations of the public law, as declared in all the authorities on international law.

The appropriation of the claimants' cotton was made after all military operations incident to the war had terminated. If that cotton had been the property of rebels it could only have been seized during the war, but being the property of loyal citizens it was not liable to seizure for any cause.

Your committee are therefore very clear in their convictions that the taking and subsequent appropriation of the claimants' cotton to the use of the United States was an act wholly unauthorized by either the statute or international law.

It is conceded that the claimants' money has gone into the Treasury of the United States through the illegal acts of the public agents. It is conceded that the only right which the United States has in respect to this money has been acquired by pleading against the claimants the statute of limitations. How would this case look had it been pending in the ordinary judicial tribunals and between individuals upon the facts here found and admitted? It is impossible to believe that any honest or intelligent court in such a case between individuals would have sustained or tolerated a defense based upon a plea of the statute of limitations. In such a case between individuals the court would have said to such a defense that the defendant was retaining to his own use money which he had obtained wrongfully, which in equity and good conscience he had no right to retain; that the law made him a trustee for the person from whom he had wrongfully taken the money, and that the money so received was a trust fund, and that no statute of limitations would run against a trust so created nor protect the trustee from his liability to pay over the money upon the demand of the *cestui que trust.*

The laches of the claimants in neglecting to institute their suit in the Court of Claims is accounted for by furnishing evidence that they consulted counsel in regard to their right under the abandoned and captured property act, and were advised that their cotton, having been neither abandoned nor captured, did not come within the provisions of that act. It is immaterial whether the advice was correct or not, if the claimant acted upon it in good faith; and it seems to your committee that the advice given was wise if the language of the act of March 12, 1863, the instructions of the Secretary dated July 3, 1863, and the act of July 2, 1864, have any meaning.

The act of March 12, 1863, authorized the Secretary of the Treasury "to appoint a special agent or agents to receive and collect all abandoned or captured property, &c." (12 Statutes at Large, page 820.)

The circular letter of instructions issued by the Secretary of the Treasury to the agents appointed under the said act defines the above words as follows:

"Abandoned property is of two descriptions: First, that which has been deserted by the owners; and, second, that which has been voluntarily abandoned by them to the civil or military authority of the United States. Captured property is understood to be that which has been seized or taken from hostile possessions by the military or naval forces of the United States."

The term "abandoned property" was also defined by Congress in the second section of the act of July 2, 1864, as follows:

"Property, real or personal, shall be regarded as abandoned when the lawful owner thereof shall be voluntarily absent therefrom and engaged either in arms or otherwise in aiding or encouraging the rebellion." (13 Statutes at Large, pages 375, 376.)

It was only the "net proceeds" of such property as that above described that the Court of Claims was authorized to return to loyal claimants by the third section of the act of March 12, 1863. And it would seem that the legal adviser of the claimants gave to that act the construction which its language justified.

The claimants further urge as an excuse for their apparent laches the following suggestions:

First. Their remedy against the United States did not exist upon an implied contract until Congress had adopted and ratified the illegal acts of the Treasury agents

in the appropriation of said cotton; that such adoption and ratification of the illegal acts of said agents did not occur until the passage of the act of Congress approved July 27, 1868 (15 Statutes at Large, pages 243, 244), and that they had six years from that date in which to institute their suit against the United States, upon an implied contract, resulting from the adoption of the illegal acts of the public agents in appropriating the claimants' cotton to the use of the United States.

Second. That they were justified by a fair construction of the decisions of the Supreme Court, that being residents in a State declared in insurrection, they were deprived of any right to bring suit against the United States, in the Court of Claims, upon any cause of action, until by proclamation the rebellion was declared to be at an end, and that they had six years from the date of such proclamation in which to institute their suit in the Court of Claims.

It is evident to your committee that it was the purpose of the act of July 27, 1868, to relieve all Treasury agents engaged in the execution of the "abandoned and captured property act" from all liability for illegal acts done by them, whether erroneously or otherwise, in the execution of that act and the assumption by the United States of all liability for such acts. The Supreme Court declared in the case of Gibbons *v.* The United States (8 Wallace, page 272), that Congress alone had power to sanction the illegal acts of the agents of the United States. This is undoubtedly true. Another proposition, equally well established, is that a government is not to be held accountable for the misfeasance or malfeasance of its public agents; and no liability can result from such acts until they have been ratified and adopted by the government for which the agent acts. This principle is asserted with great force in the case of Buron *v.* Denman (2 Exchequer Reports, 188, 189), which is almost universally recognized as authority where the common law prevails. In that case, after holding that there was a subsequent adoption and ratification by the Queen's Government of the unauthorized and illegal acts of Commander Denman, the question arose whether it was like the case of individual principals and agents, where a subsequent ratification and adoption of the act gave the aggrieved party a remedy against either or both the principal and agent. But the court clearly holds that the act of the Crown absolves the officer and left it alone responsible.

The conclusion to be drawn from this authority is that as soon as a Government has ratified the illegal acts of its agents, the liability of the Government begins, and a right of action then, for the first time, accrues against the ratifying Government. This must inevitably be true, and the limitation prescribed for commencing a suit resulting from such ratification must begin with the assumption of liability by the Government, for where no right of action existed there can be no operation of a statute of limitations, because the very elements upon which such limitation is founded are wanting in such cases.

If it be true, therefore, that the Government did not become liable in an action upon implied contract brought in the Court of Claims for the illegal appropriation of the claimants' cotton until the passage of the act of July 27, 1868, then the claimants had six years in which to bring their suit, and if they brought their suit within that time they were not guilty of laches. The Supreme Court decided in the case of The Protector (12 Wallace, page 700) that this period of recognized war during the late rebellion, which must be deducted from the period fixing the limitation to an action, was that which the executive department of the Government declared, and that was from April 19, 1861, to April 2, 1866. That case involved the question as to how long the right of a citizen of the State of Alabama to sue out a writ of error to the Supreme Court of the United States was suspended by reason of the existence of the rebellion, and the court fixed the above period as to all the States except Texas.

The Supreme Court in the case of Venice (2 Wallace, page 278) declared that even the permanent occupation of States or parts of States during the late rebellion "did not indeed restore peace nor in all respects former relations." The places thus captured and held by the military power of the United States were by this means only brought under the special licensing power of the President, conferred by the act of July 13, 1861. (The Venice, 2 Wallace, page 278.) But though this power was withdrawn and taken away by the ninth section of the act of July 2, 1864 (13 Statutes at Large, page 377), this act applied as well to those parts of the Confederate States which were held in permanent military occupation by the Union forces as to those which were not; and this law continued in force until peace was restored between the United States and those States embraced in the proclamation of the President, dated April 2, 1866. The inhabitants of such a State were still subject to the laws of war, and were not in any respect controlled by the laws of peace or the civil authorities. (Planters' Bank *vs.* Union Bank, 16 Wallace, page 495.)

The capture of New Orleans by the Union forces did not terminate the war in the State of Louisiana. It was still governed by martial law; and the intercourse of its citizens with other parts of the United States was not unrestricted and free, but was at all times subject to military restraint and to regulations prescribed by the executive department of the Government. Nashville and Memphis after their capture by

the Union forces were never again occupied or controlled by the Confederate authorities, but the capture and permanent occupancy of those cities did not convert the State of Tennessee from a *disloyal* to a *loyal* State, nor authorize its citizens to have unrestricted commercial intercourse with the loyal States, or to maintain suits against the United States in the only tribunal established for that purpose. (Hamilton *vs.* Dillin, 21 Wall., 73, 94.)

The city of Savannah was never, after its capture by the Union troops, occupied or controlled by the Confederate authorities, and yet the capture and permanent occupancy of that city by the United States authorities did not in any respect cause the suppression of the rebellion in the State of Georgia nor authorize free and unrestricted commercial intercourse between that city and the loyal States. (Cutner *vs.* United States, 17 Wallace, page 517.)

These decisions establish the proposition that, as to those States or parts of States which were declared in rebellion subsequent to June 19, 1861, the character of enemy territory remained until that condition was changed by the action of the executive or legislative departments of the Government. This proposition being established, another, equally well known, must be conceded; and that is, that during the period when that condition exists between two nations there is a total disability to sue by either belligerent in the courts of the other belligerent. The disability to maintain a suit by one who is legally classed as a public enemy is an exception admitted in all statutes of limitation, independent of and without any aid from such statutes. It is the *vis major* which war creates, and is more potent than statutes or constitutional provisions. It results from that long-established principle of international law which, in time of war, effectually closes the courts of those who are enemies of each other and excludes them from any right to maintain any action in the courts of either.

No language can add to the force with which Mr. Justice Clifford has characterized the unyielding power of exclusion resulting from this cause. In Hanger *vs.* Abbott (6 Wallace, page 539) the legal incidents of the existence of war upon the right to sue is thus described:

"Total inability to sue on the part of enemy creditors to sustain any contract in the tribunals of the other belligerent exists during war, but the restoration of peace opens the doors of the courts. Absolute *suspension* of the right and *prohibition* to exercise it exist during war, *by the law of nations, and if so then it is clear* that peace can not bring with it the remedy unless it also be held that the operation of the statute of limitations is also suspended during the period the creditor is *prohibited* BY THE EXISTENCE OF THE WAR AND THE LAW OF NATIONS FROM ENFORCING HIS CLAIM. Neither *laches* nor fraud can be imputed in such a case, and none of the reasons on which the statute is founded can possibly apply, *as the disability to sue becomes* ABSOLUTE AT THE DECLARATION OF WAR AND IS A CONCLUSION OF LAW."

In the case of Mrs. Alexander's cotton (2 Wallace, page 421), the Supreme Court said:

"Mrs. Alexander being now a resident in enemy territory, and in law an enemy, can have no standing in any court of the United States so long as that relation shall exist."

The unanswerable logic of these propositions is so obvious that a denial of them would result in the assertion of the legal absurdity of declaring that, although the right to invoke the jurisdiction of the Court of Claims was denied to the claimants while they were, in law, public enemies of the Government, they are to be adjudged guilty of laches for not doing that which the law forbade them to do.

Your committee can not believe that Congress intended by the statute of limitations, upon which the defense of the United States was based, to punish any of its loyal citizens for not doing that which the law did not permit them to do, and that those statutes ought to have received such a construction as would have avoided that result.

The decision of the Supreme Court in the case of The Protector was the first decision of that court which fixed the period of the duration of the late rebellion, with reference to the statute of limitations. That decision was announced on the 29th day of January, 1872, and the claimants within two months after the rendition of that decision instituted their suit in the Court of Claims.

Your committee have considered these decisions and facts for the purpose of determining if an ignorance of their legal rights by the claimants ought, in view of the uncertain and unsettled state of the law upon these subjects, to relieve the claimants from the imputation of laches. Attention is here invited to what the Supreme Court had decided upon these questions:

First. It had decided in the cases of Mrs. Alexander's cotton (2 Wallace, page 417) and Hanger *vs.* Abbot (6 Wallace, page 539) that there was a total disability to sue on the part of one belligerent in the courts of the other belligerent during the existence of the war which created the disability; and that such disability continued until that relation was thoroughly and permanently changed by the action of the legislature and the executive, or otherwise.

Second. That court decided in the cases of the Planters' Bank *vs.* The Union Bank

(16 Wallace, page 495), Cuther *vs.* The United States (17 Wallace, page 517), Hamilton *vs.* Dillon (21 Wallace, pages 73-94), that even the permanent occupation of New Orleans, Savannah, Nashville, and Memphis by the Union troops did not relieve the inhabitants of those places from the operations of the laws of war nor restore to them the rights of peace.

Third. It decided in the case of The Protector (12 Wallace, page 700) that in fixing the period of disability which attached to the citizen of a State in rebellion in respect to his right to prosecute a writ of error to the Supreme Court of the United States, the time which elapsed between April 19, 1861, and April 2, 1865, was to be deducted from the period of limitation in respect to the exercise of that right.

The period of limitation in respect to actions upon implied contract, in the Court of Claims, was six years "after the claim first accrued and became cognizable" in that court. It seems to your committee a matter of serious doubt as to whether the claims of citizens of the seceded States, although they continued loyal to the United States, became "cognizable" by the Court of Claims until the rebellion had been officially declared at an end. The proclamation declaring that fact, which the Supreme Court has recognized as effective for that purpose, was issued April 2, 1866. The claimants did bring their suit within six years from that date; and if their right to institute suit was revived by that proclamation they had the whole prescribed by the statute for the assertion of their rights.

Your committee would not, except in extreme cases, relieve claimants from the consequences of their own laches; but here is a case which seems to afford well founded reasons to doubt whether the claimants were in fact guilty of laches. The Court of Claims, with its four judges, was equally divided upon the question at two different hearings of the cause. The Supreme Court, with its seven judges (two being absent), Justices Miller, Field, and Bradley dissenting, affirmed the judgment of the Court of Claims. It is not denied that the opinion which they delivered is as binding as if pronounced by a full court; but can it be safely assumed that if the court had been composed of all its members the two absentees would have joined the majority instead of the minority? But the practical and important question is, can the United States afford to persist in the defense which has thus far been successful in defeating the claimants' demand for the proceeds of their cotton? It is not denied that the claimants were thoroughly loyal to the United States during the late rebellion. The Government has retained this money without right for more than seventeen years. The claimants have exhausted all available remedies, and are without relief.

The passage of this bill will establish neither a new nor a dangerous precedent, because the precedents of Congress affording relief to claimants from adverse judgments of the Court of Claims and the Supreme Court, as well as from the bar of the statute of limitations, are already established, if acts of Congress in similar cases can become precedents. To some of these acts your committee respectfully refer:

First. For relief of Theodore Adams. (17 Statutes at Large, page 713.) This bill appropriated to the claimant $112,740.46, although the Supreme Court had decided that he had no legal claim against the United States. (7 Wallace, page 463.)

Second. For relief of Battelle & Evans. (17 Statutes at Large, page 651.) The defense was the statute of limitations, and the court was directed to retry the case, without regard to its former adverse decision. (7 Court of Claims, page 297; 8 Court of Claims, page 301.)

Third. For relief of Albert Grant. (17 Statutes at Large, page 600.) In the Court of Claims the judgment was adverse to the claim, which Congress by this act authorized to be paid. (5 Court of Claims, page 86.)

Fourth. For relief of Gibbons & Kelly. (14 Statutes at Large, page 644; 2 Court of Claims, page 353.)

Fifth. For relief of Robert Erwin. (19 Statutes at Large, page 509.) This was a cotton claim, and although the claimant was a soldier in the Confederate army and never instituted any suit under the "abandoned and captured property act," Congress relieved him of the legal consequences of his own laches, and authorized the Court of Claims to hear his case under the provisions of the abandoned and captured property act, although it was barred by the statute of limitations. It was not claimed in that case that the claimant became loyal until after the rebellion had been suppressed. That was a case of captured cotton, because the cotton came to the possession of the United States by virtue of the capture of Savannah by the army under command of General Sherman.

Your committee might refer to many precedents of a similar character, but these are sufficient to demonstrate the proposition that this bill, if passed, will not be in any respect a new precedent. That it will not be a dangerous precedent your committee are equally certain, because it can never be a bad precedent for the Government to return to its citizens that which came to its possession through the illegal or wrongful acts of its agents, and which in justice and good conscience the Government has no right to retain. The precedent, even if it were to be first established by the *passage of this bill,* would be a precedent of honesty and justice, and of such precedents neither governments nor individuals should be afraid.

The committee therefore report back the bill and recommend its passage.

The amount appropriated by this bill is $127,350.

Your committee agree with the said committee in the conclusions reached by it in said report, that the lawful title of the claimants to the cotton in question has not been divested by any proceedings under the authority of the Government; and that the net proceeds of such cotton having gone into the Treasury of the United States through the illegal acts of its agents, it ought not to shield itself from the payment of the same to the claimants by the statute of limitations.

The committee therefore report back the bill and recommend its passage.

Your committee, while adopting the reasoning of said report and concurring in the conclusion that it is unjust for the United States to urge the statute of limitations as a defense in such a case as this, cannot recommend the making of an appropriation which shall provide for the *immediate* payment to the claimants of the proceeds of the cotton claimed which the Court of Claims has found to have been paid into the Treasury. It appears to your committee from an examination of the record upon which the case was heard in the Court of Claims that the United States relied for its defense mainly upon the statute of limitations, and produced but little testimony other than that which was found upon the records of the Treasury Department. While the witnesses for the claimants were closely cross-examined by the counsel for the United States, there was but one witness examined on behalf of the United States.

Your committee believe that in these cases the defense made by the United States should be based upon the exact merits of the contention rather than upon technical objections. It is possible that in their reliance upon the statute of limitations the attorneys for the United States were indifferent to a proper presentation to the Court of Claims of those facts which might have presented some defense to the case upon its merits. In waiving for the claimants' benefit the statute of limitations it seems to your committee entirely just to authorize a rehearing of the whole case upon its merits, in order that the United States may have an opportunity of presenting any objections it may have to the merits of the claim. This seems a fair equivalent for a waiver by the United States of the bar of the statute of limitations.

In the former report made by the Committee on War Claims in this case, there was a reference to some cases which it was assumed afforded precedents for the proposed legislation, and your committee here submit a reference to other cases in which Congress has made provision for the payment of and the restoration of the proceeds of cotton which came into the possession of the United States during the late war. The following are precedents of that character:

(1) Joint resolution for the relief of Thomas P. McManus authorizes the Secretary of the Treasury to adjust the claim of said McManus for the proceeds of ninety bales of cotton taken from said McManus in July, 1865, and to pay him the amount of the proceeds thereof, not to exceed the sum of $22,250. (16 Stats. at Large, 669.)

(2) An act referring the petition and papers in the case of Robert M. and Stephen A. Douglas, for cotton seized by the United States, to the Court of Claims, and the said court was authorized to decide the same according to law and the practice of that court in such cases and proceedings. (18 Stats. at Large, 606.)

(3) An act making an appropriation to pay the claim of Butler, Miller & Co., authorized the payment to them of the sum of $7,224.88, for cotton taken at Nashville in 1863. (19 Stats. at Large, 471.)

(4) An act for the relief of the representatives of Sterling T. Austin, deceased, authorized the Court of Claims to take jurisdiction of and render judgment for the net proceeds of cotton taken by the civil or military authorities of the United States, in the States of Louisiana or Texas, in the years 1863, 1864, and 1865. (22 Stats. at Large, 804.)

(5) An act for the relief of Rosa Vertner Jeffray and others conferred jurisdiction on the Court of Claims to hear and determine the claim of said parties for the proceeds of 820 bales of cotton, and to allow them therefor if they shall prove that the said cotton was actually and lawfully seized by the agents of the United States, an amount not exceeding the net proceeds of cotton taken at or about the same time and in the same locality. (23 Stats. at Large, 676.)

(6) A bill for the relief of Briggs, reported from this committee at the present session, waived the statute of limitations, and authorized the Court of Claims to take jurisdiction of a claim for the proceeds of cotton captured by the United States, and authorized a restoration of the proceeds of said cotton upon proof being made as required by that act.

Your committee therefore report a substitute for said bill, which provides for a rehearing by the Court of Claims of the said case of James S. Clark & Co. upon the merits, without regard to the statute of limitations or the former adverse decision of the Court of Claims or the Supreme Court, and recommend its passage.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 378.

DR. W. S. HOSACK.

FEBRUARY 16, 1892.—Laid on the table and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2346.]

The Committee on Claims, to whom was referred the bill (H. R. 2346) for the relief of Dr. W. S. Hosack, beg leave to report that they have carefully examined this case and find that the petitioner was, during the late war, a private in Company G, Seventy-eighth Regiment Pennsylvania Volunteers, and was detailed to perform field duty in hospital, nursing sick, etc., and never did any other duty. He asks that he be allowed the difference between the pay of a private, which he received, and an assistant surgeon. There is no evidence that he was opposed to performing this duty during the war or ever claimed any allowance therefor.

There was during almost the entire time for which he claims pay, both a surgeon and assistant surgeon, commissioned and paid by the Government, belonging to the Seventy-eighth Pennsylvania Regiment. There is evidence showing that during this time the office of assistant surgeon became vacant for a short time and another physician was appointed to fill it.

The committee are of opinion that the petitioner was content to perform this duty with the pay of a private, and occupy a position of safety, and that this claim is all an afterthought and should not be allowed. They therefore recommend that his petition be not granted.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 379.

JAMES C. BOOTH, DECEASED.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BYRNS, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 1122.]

The Committee on Claims, to whom was referred the bill (S. 1122) for the relief of James C. Booth, beg leave to report the same with recommendation that it pass.

A similar bill was reported favorably by your committee the first session of the Fifty-first Congress, a report thereon No. 1823, of the House, and also the report made by the Senate Committee on Finance this session, and that report so fully sets forth the facts that your committee adopt the same and make it a part of this report.

[Senate Report No. 3, Fifty-second Congress, first session.]

The facts connected with this bill for the relief of the heirs and legal representatives of James C. Booth, deceased, are fully set forth in the following letter of the Director of the Mint:

TREASURY DEPARTMENT,
BUREAU OF THE MINT,
Washington, D. C., March 15, 1890.

SIR: Referring to your letter of the 11th instant, inclosing Senate bill No. 1367, for the relief of the heirs of James C. Booth, late melter and refiner of the mint at Philadelphia, and asking a report on the advisability of allowing the claim, I respectfully submit the following statement:

Prof. James C. Booth was appointed melter and refiner of the mint of the United States at Philadelphia in 1849, and continued to serve in that capacity until the date of his death, March 23, 1888. During this time Mr. Booth handled large amounts of both gold and silver bullion. During the fiscal year 1885, as melter and refiner of the mint, Mr. Booth received 646,626,931 standard ounces of gold bullion, with a wastage of only 7.885 ounces, and 28,936,069.91 standard ounces of silver bullion, with an apparent wastage of 3.541.93 ounces.

It appears that on the 3d of January, 1885, the melter and refiner missed three silver bars which had been delivered to him during the year, numbered 7087, 7093, and 7113, which contained 1,980.12 ounces of silver. As his books showed no record of these bars having been melted, he immediately communicated the information of the loss by letter to the superintendent, so that on the settlement of his accounts for the fiscal year the wastage actually allowed him was 1,561.81 ounces. No trace of these bars has ever been found.

Owing to the lack of vault room at the mint at Philadelphia, the silver in bars, and for which the melter and refiner was obliged to receipt, was stored in the courtyard without any protection whatever from theft except that afforded by the watchman, and as the melter and refiner had no power to provide extra means for the safety of the bullion, it would appear that he was only technically responsible for it. As credit could not be allowed the melter and refiner for the stolen bars as wastage, he was required to deposit with the superintendent an equal amount of silver bullion,

which he did promptly when called upon to do so by purchasing the bullion in the open market.

Inasmuch as proper storage facilities were not afforded the melter and refiner by the Government in which to store the bullion in his custody, I am clearly of the opinion that relief should be granted in this case to the heirs of the late melter and refiner for the loss of this bullion.

From July 1, 1874, to March 23, 1888, Prof. Booth, as melter and refiner of the mint handled 31,255,534.264 ounces of gold bullion of the value of $581,498,309, on which the legal allowance for wastage under section 3542 of the Revised Statutes would be $581,498.31, while the actual wastage was only $58,137. He handled of silver bullion during this time 341,940.331 ounces, of which the coining value in silver dollars was $397,894,401. The legal allowance for wastage on this under section 3542 of the Revised Statutes would be $596,841, while the amount actually wasted was only $14,565.

Respectfully yours,

E. O. LEECH,
Director of the Mint.

Hon. JUSTIN S. MORRILL,
Chairman of the Committee on Finance.

The committee are therefore of the opinion that the relief asked for should be granted by the passage of the bill.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 380.

THOMAS GUINEAN.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BYRNS, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 875.]

The Committee on Claims, to whom was referred the bill (S. 875) for he relief of Thomas Guinean, respectfully report:

Upon a careful examination of the evidence on file with said bill the facts justify the passage of this act, and being satisfied with said evidence your committee recommend that the bill do pass.

A similar bill (S. 17) was favorably reported by your committee the first session of the Fiftieth Congress (Report No. 229) which was agreed to and so fully set forth the facts that your committee adopt the same and makes it a part of this report.

[Senate Report No. 229, Fiftieth Congress, first session.]

The Committee on Public Lands, to whom was referred the bill (S. 17) for the relief of Thomas Guinean, of Oregon, having duly considered the same, respectfully report:

It appears from the record in the General Land Office that on June 12, 1877, Bradley S. Hoyt filed in the land office at Shasta, Cal., a declaration of intention to reclaim the west half of section 17, and northwest quarter of section 20; the northwest quarter of the southwest quarter of section 20, and south half of northeast quarter and northeast quarter of southeast quarter of section 19, all in township 37 north of range 5 east of Mount Diablo meridian, per desert-land certificate No. 3, and paid the United States the sum of $160 in partial payment therefor, and afterward assigned said certificate to the claimant, Thomas Guinean.

The circular of instructions to registers and receivers of March 12, 1877, issued by the Commissioner of the General Land Office concerning the execution of the desert-land act recognized the right of assignment of desert-land certificates. The certificate itself contained a clause of which the following is a copy:

"It is therefore further certified that if within three years of the date hereof the said ——— ——— or his assignee or legal representative shall satisfactorily prove that said land has been reclaimed by carrying water thereon, and shall pay to the receiver the additional sum of $1 per acre for the land above described, he or they shall be entitled to receive a patent therefor under the provisions of the said act."

The entry made by Hoyt was subsequently contested by parties claiming the right to make entry of the same lands under the preëmption law. Notice of contest was given by publication, and upon the hearing of the contest, had before the register and receiver October 14, 1878, it was held that said tracts of land were not desert lands within the meaning of the desert-land act, and the entry of said Hoyt was canceled. Hoyt made application to have said $160 refunded to him, which was denied, and therefore the claimant made a like application to have the money refunded to him as assignee of said Hoyt, which was refused. The reason for such refusal is stated in the following extract of the decision of the Commissioner of the General Land Office:

"In the decisions of the honorable Secretary of the Interior, by which this office is governed in *recommending the repayment* of purchase money for lands errone-

ously sold, it is held that where the obstacle to the confirmation of sale does not exist upon the part of the United States, but is the result of an illegal act upon the part of the purchaser, the money can not be refunded."

And it was held that as the land entered by Hoyt was not desert land, his own act constituted the obstacle to the confirmation of the sale, and the application to have the money refunded was accordingly denied.

So far as it appears there was in the case no intended fraud upon the Government, and that both Hoyt and the claimant acted in good faith. As the statute necessarily defines desert lands in general terms only, what are desert lands is a matter of opinion upon which persons may honestly differ.

In the opinion of your committee the equities of this case are equal to those in other cases of a similar character in which Congress has granted relief, and your committee recommend that the bill do pass.

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SCOW ROWENA.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BYRNS, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 3580.]

The Committee on Claims, to whom was referred the bill (H. R. 3580) granting jurisdiction and authority to the Court of Claims in the case of the scow *Rowena*, respectfully report as follows:

The scow *Rowena* was lost on the morning of the 19th of November, 1874, between 3 and 4 o'clock, together with most of her cargo, in attempting to run into the port of Michigan City, Ind., by reason of mistaking the location of the pier-head light.

The light had been changed from the east to the west pier, on the 16th of November, three days previous to the wrecking of the *Rowena*.

Reports from the Light-House Board show that the west pier had been extended some five hundred feet beyond the east pier, the work of extension having been carried to completion during the summer and fall of 1874; and that as soon as the work would admit of the change the light, which had theretofore been maintained on the east pier, was changed to the new and more extended west pier.

A chart of the port of Michigan City, drawn to a scale of 200 feet to the inch, bearing the approval of the Light-House Board, May 5, 1875, is attached hereto and made a part hereof. This chart exhibits the location of the old and new lights after removal, the extended west pier, the light-house of the port, located about 1,800 feet inland from the new and about 1,200 feet from the old location of the pier-head light, and the spot where the *Rowena* was wrecked, being about 550 feet inshore from the end of the west pier and west thereof.

The master of the *Rowena* had no notice of the change in location of the pier-head light. The morning was dark, the wind west-northwest, and a blinding snow-storm was prevailing. He shaped the course of the vessel by the location of the light on the pier, as he understood it, ranging with that of the light-house, which carried him to the west of the west pier, missing the haven afforded by the breakwaters. The vessel went ashore and was wrecked.

Andrew Wilson, master of the scow *Cousin Mary*, who seems to be a disinterested witness, swears as follows:

During the season of navigation of the year 1874, was lying at the dock in the port of Michigan City, Ind., November 18, 1874; left port of Michigan City for port of Saugatuck, at about 12 o'clock at night, November 18, 1874; soon after encountered rough weather; decided to return to the port of Michigan City. The wind was west-northwest, momentarily increasing in strength, accompanied with a blinding snow-storm. I entered the port of Michigan City on my return between the hours of 3 and 4 *o'clock, a. m., November 19, 1874.* The pier light was changed from the east to the

west pier of said port of Michigan City while I was there previous to the 19th day of November, 1874, therefore when I entered the said port of Michigan City, on the morning of the 19th day of November, I was governed in directing the course of the scow *Cousin Mary* entirely by the location of said pier light. The said pier light was visible at a considerable distance, but the pier was not visible until about 150 feet of the outer end; the pier referred to is the west pier. The distance between the east and west pier, at the outer end of the west pier, I believe to have been at at that time at least 600 feet. About ten minutes after entering the said port of Michigan City, on the morning of November 19, 1874, as before recited, the scow *Rowena*, in endeavoring to enter the said port of Michigan City, was wrecked. The scow *Rowena* ran aground about 16 feet west of the said west pier, and when first seen by me, which was immediately after she ran aground, she lay in a line about parallel with said west pier. The said scow *Rowena* and her cargo become a total wreck in about the same place where she ran ashore. I am personally acquainted with Captain Read, who was master of the said scow *Rowena*, and know him to have been a thoroughly competent and careful man as a manager of vessel craft on Lake Michigan.

De Witt C. Bowen, the claimant, swears that the scow *Rowena* sailed on the 22d of October, 1874, from the Port of Michigan City, under charge of Mr. Read, her master, and that she did not return, nor did her master return, to said port until the morning of the 19th of November, when she was wrecked. He further swears that the loss resulted from the removal by the United States Government of the pier head-light from the east to the west pier without notice to mariners; that the master of the *Rowena* was misled by reason of the change of light from the east to the west pier.

Henry M. Robert, light-house engineer, officially reports under date of November 23, 1874, as follows:

I see to-day by the papers that four days after the change a scow from White Lake, loaded with lumber, went ashore from ignorance of the change and was wrecked.

The fact of the wreck and circumstances attending it are not controverted.

Section 4677, Revised Statutes of the United States (act approved July 15, 1870, 16th Stats., 309), provides:

The Light-House Board shall properly mark all pier-heads belonging to the United States situated on the northern and northwestern lakes whenever the Board is duly notified by the Department charged with the construction or repair of pier-heads that the construction or repair of any such pier-heads has been completed.

Section 4674 of the Revised Statutes (act March 3, 1859, 11th Stats., 424), provides as follows:

The Secretary of the Treasury may, upon the recommendation of the Light-House Board, discontinue from time to time such lights as may from any cause become useless or unnecessary. And he may, upon the like recommendation, from time to time re-establish any lights which have thus been discontinued whenever he believes such re-establishment to be required by public convenience or the necessities of trade or commerce.

The official order of the Light-House Board changing the light from the east to the west pier was not passed by the Board till December 9, 1874, twenty days after the wreck of the *Rowena*, and twenty-three days after the change had been made. That order is numbered 53 of 1874, and is in the following form:

[Notice to Mariners. (No. 53 of 1874.) United States of America.—Northern and Northwestern Lakes—Lake Michigan, Michigan City, Indiana.]

Notice is hereby given that the beacon light at Michigan City, Indiana, has been moved from the end of the east pier to the end of the west pier.

By order of the Light-House Board.

JOSEPH HENRY,
Chairman.

OFFICE LIGHT-HOUSE BOARD,
Washington, D. C., December 9, 1874.

This was the first and only notice of the change of the beacon published as "Notice to Mariners" having authority of law. The Light-House Board says in a communication to the committee: "The regular notice issued by the Light-House Board was not published until December 9, 1874, after the change was effected."

There was no definite informal notice given of the intended removal of the light prior to its actual removal. The following notice was published in the Chicago Tribune of November 15, 1874.

MARINE.

The light-house engineer, Maj. Henry M. Roberts, gives notice that the pier-head light at Michigan City, Ind., will be moved from the end of the east pier to the end of the west pier during the next week if the weather permits.

The calendar shows that November 15 was Sunday; if moved over the following week its removal would have been made subsequent to November 22, 1874. It is probable, however, the intention of Major Roberts was to give notice of the intended removal during the week commencing the 15th of November, and not that commencing November 22, 1874. The Michigan City Enterprise, of November 13, 1874, contained the following:

The beacon-light will be removed to the west pier the first fair day. This will make a change of range-lights, of which captains of vessels will take notice.

This notice of intended change depended upon the uncertainties of the weather.

The St. Joseph, Mich., Traveler and Herald, of November 14, 1874, has the following:

PIER HEAD-LIGHT REMOVED.

OFFICE OF LIGHT-HOUSE ENGINEERS,
Milwaukee, Wis., November 12, 1874.

Editor HERALD:

SIR: You are respectfully informed that the pier head-light at Michigan City, Ind., will be moved from the end of the east pier to the end of the west pier during the next week if the weather permits.

By giving publicity to this notice you will no doubt accommodate the shipping trade to that port.

Very respectfully,

HENRY W. ROBERTS,
Major of Light-House Engineers.

This notice was published Saturday, the 14th of November, but was wholly indefinite and useless to mariners as information respecting the change. It was a mere caution as to what might possibly occur, *the weather permitting.*

The foregoing embrace all notices referred to in the official report of the Light-House Board to the Secretary of the Treasury.

The report of the foreman, George Dobson, to Major Roberts, respecting the removal of the light, dated March 20, 1875, exhibits the same uncertainty. He says:

And, sir, the reason we could not set an exact time was because we could not depend on the weather, and when once commenced it were better to keep straight on than leave off at any point short of finishing. And, sir, I told the collector of the port that day that you were there I would have it over by Saturday, weather permitting, but it kept too rough; so I put over on Monday following.

These were not notices by which mariners could be governed in the opinion of your committee. The light was in fact changed without

legal warrant, without notice, and upon the volition of the foreman Dobson. To one therefore without actual notice of the change the light on the west pier was in fact a false light erected by the agents of the United States.

No legal remedy exists whereof one damnified by the Goverement in the manner disclosed in this case may avail himself. But the non-existance of a judicial remedy does not affect the right. The existance of a right as against the Government in cases of tort is fully recognized by that distinguished jurist, Judge Cooley, who in his work on Torts, says (page 122):

Even the State or General Government may be guilty of individual wrongs, for while each is a sovereign it is a coporation also, and as such is capable of doing wrongful acts. *The difficulty here is with the remedy, not with the right.* No sovereignty is subject to suits, except with its own consent. But either this consent is given by general law, or some tribunal is established with power to hear all just claims; or, if neither of these is done, the tort remains, and it is always to be presumed that the legislative authority will make the proper provision for redress when its attention is directed to the injury.

But precedent is abundant wherein Congress has relieved against torts on the part of the Government. Among such may be cited:

(1) An act for the relief of T. H. Holderness, owner of the British ship *Duke of Edinburgh*, approved January 27, 1873 (17 Stat. L., p. 717). This act appropriated to re-imburse the owner of that vessel for injuries received by collision with the United States steamer *General McPherson*.

(2) A resolution referring to the Court of Claims claims against the United States for the loss of the schooner *William Carlton*, approved March 3, 1871 (16 Stat. L., p. 705). This act referred to that court the claim of the owners of said schooner, her cargo, etc., for loss by collision with the United States ram *Stonewall*, on November 23, 1865. That court rendered judgment in favor of the claimants against the Government for $28,626.85. (10 Court of Claims Reports, p. 485.)

(3) An act referring the claim of the owners of the schooner *Ada A. Andrews* to the Court of Claims, approved June 20, 1874 (18 Stat. L., p. 201). Judgment against the United States was rendered by the Court of Claims for $28,809.35. (12 Court of Claims Reports, p. 480.)

(4) An act referring the claim of the owners of the schooner *Flight* to the Court of Claims, approved January 12, 1877 (19 Stat. L., p. 503). The claimants recovered $3,975. (14 Court of Claims Reports, p. 425.)

(5) An act granting jurisdiction and authority to the Court of Claims in the case of the schooner *Don Pedro*, approved March 3, 1879 (20 Stat. L., p. 483). Judgment for claimants for $7,799.60. (19 Court of Claims Reports, p. 684.)

(6) An act for the relief of George R. Dennis, of Maryland, approved June 10, 1878 (20 Stat. L., p. 540). This act directed the Secretary of the Treasury to pay to George R. Dennis $2,393.66 for damages sustained by him by the Government steamer *General Meigs* running into his schooner *William J. Dennis*.

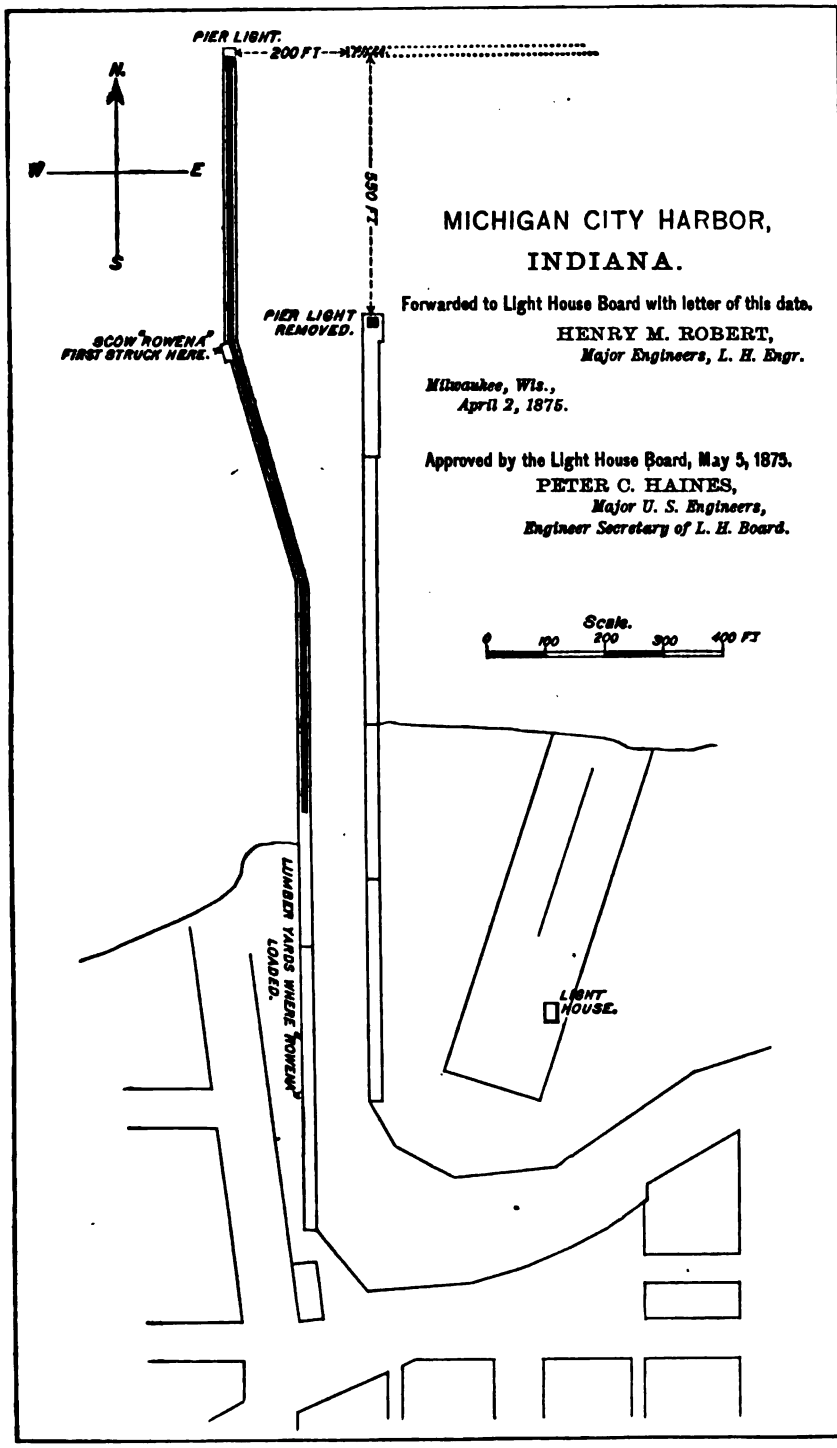
(7) The sundry civil appropriation act of August 7, 1882 (22 Stat. L., p. 324), appropriated for two cases of similar character, one of them being "to pay to Isaac A. Sylvester for the losses and damages sustained by him on account of the collision of the United States sloop-of-war *Lancaster* with the drill-platform and sloop *Derry* at Gangway Rock, Portsmouth, N. H., $2,000, in full satisfaction thereof."

(8) The sundry civil appropriation act of 1883 appropriated $19,957 to re-imburse the Potomac Steamboat Company for a collision in Hampton Roads with a United States naval tug.

(9) Three similar claims, aggregating $14,237.92, were appropriated for in the sundry civil appropriation act approved March 3, 1885. (23 Stat. L., p. 496.)

Your committee is, however, indifferently equipped for the investigation of nice questions of contributing negligence, or close scrutiny of values for which allowances ought to be made in cases of this nature. Such questions should be subjected to the test of cross-examination of witnesses under the sanction of an oath, but the claimant should not be denied his day in court.

Your committee therefore report the accompanying bill (H. R. No. 2978), a bill granting jurisdiction and authority to the Court of Claims *in the case of the scow Rowena*, and recommend that the same do pass.


PIER LIGHT.
200 FT
N.
W
E
S
550 FT
MICHIGAN CITY HARBOR,
INDIANA.
Forwarded to Light House Board with letter of this date.
HENRY M. ROBERT,
Major Engineers, L. H. Engr.
Milwaukee, Wis.,
April 2, 1875.
Approved by the Light House Board, May 5, 1875.
PETER C. HAINES,
Major U. S. Engineers,
Engineer Secretary of L. H. Board.
PIER LIGHT REMOVED.
SCOW "ROWENA" FIRST STRUCK HERE.
Scale.
0 100 200 300 400 FT
LUMBER YARDS WHERE "ROWENA" LOADED.
LIGHT HOUSE.

[Papers accompanying report.]

Affidavit of Andrew Wilson, of the scow *Cousin Mary*, marked Exhibit A.
Affidavit of DeWitt C. Bowen, claimant, Exhibit B.
Affidavit of DeWitt C. Bowen of his inability to find the master of the scow, Exhibit C.
Official reports, marked Exhibit D.

EXHIBIT A.

I, Andrew Wilson, was master of the scow *Cousin Mary* during season of navigation of the year 1874. Was lying at a dock in the port of Michigan City, Ind., November 18, 1874. Left port of Michigan City for port of Saugatuck at about 12 o'clock at night, November 18, 1874; soon after encountered rough weather; decided to return to the port of Michigan City. The wind was west, northwest, and momentarily increasing in strength, accompanied with a blinding snow-storm. I entered the port of Michigan City on my return between the hours of 3 and 4 o'clock, a. m., November 19, 1874. The pier light was changed from the east to the west pier of said port of Michigan City while I was there previous to the 19th day of November, 1874; therefore, when I entered the said port of Michigan City on the morning of the 19th day of November, I was governed in directing the course of the said scow *Cousin Mary* entirely by the location of said pier light. The said pier light was visible at considerable distance, but the pier was not visible until within about 150 feet of the outer end; the pier referred to is the west pier. The distance between the east and west piers at the outer end of the west pier I believe to have been at that time at least 600 feet. About ten minutes after entering the said port of Michigan City, on the morning of November 19, 1874, as before recited, the scow *Rowena* in endeavoring to enter the said port of Michigan City was wrecked. The said scow *Rowena* ran aground about 16 feet west of the said west pier and when first seen by me, which was immediately after she ran aground, she lay in a line about parallel with said west pier. The said scow *Rowena* and her cargo became a total wreck, in about the same place where she ran ashore. I am personally acquainted with Captain M. Read, who was then master of said scow *Rowena*, and know him to be a thorough competent and careful man as a manager of vessel craft on Lake Michigan.

ANDREW WILSON.

STATE OF MICHIGAN,
Muskegon County, ss:

Before me, the subscriber, notary public in and for said county, personally appeared the within-named Andrew Wilson, who being duly sworn according to law, doth depose and say that the facts set forth in the foregoing statement are true, to the best of his knowledge and belief; that he has no interest, pecuniary or otherwise, in recovering the value of the scow *Rowena*, or the cargo thereof, and that he has made the foregoing statement in the interest of truth and justice, uninfluenced by any other motives.

Sworn and subscribed before me this 27th day of August, A. D. 1875.

CHRISTIAN L. STREUG,
Notary Public in and for Muskegon County, Michigan.

EXHIBIT B.

I, De Witt C. Bowen, of lawful age, being duly sworn, depose and say that I am a native-born and loyal citizen of the United States, and that I have never borne arms against the Government of these United States; and I further depose and say that in the matter of the claim against the United States for the relief of D. C. Bowen & Co., for the loss of their vessel called the scow *Rowena*, and her cargo, which was lost on the morning of the 19th day of November, A. D. 1874, at the port of Michigan City, situate on Lake Michigan, in the State of Indiana, I was one of the members of the firm of D. C. Bowen & Co., who were the owners of the vessel called the scow *Rowena*, and of her cargo, at the time she was lost; that the loss of said vessel and her cargo was caused by the removal of the pier-head light at the port of Michigan City, in the State of Indiana, by the Government, from the east pier, without notice being given; and I further depose and say that the said scow *Rowena* was, on the 22d day of October, A. D. 1874, under the charge of M. Read, who was her master, and sailed from the port of Michigan City, Ind., on that day, and that the said scow *Rowena* or her master was not thereafter, viz, from the 22d day of October, A. D. 1874, in or at the port of Michigan City, Ind., until the morning when she was lost, which was the 19th day of November, A. D. 1874.

And I further depose and say that I was a diligent reader of newspapers and had many correspondents in Michigan City, Ind., Chicago, Ill., and elsewhere, and that prior to the loss of the scow *Rowena* and her cargo as aforesaid I had no notice or knowledge from any source whatsoever of an intended removal of the said pier-head light from the east pier of said port of Michigan City, Ind., and I further depose and say that the said scow *Rowena* and her cargo at the time she was lost as aforesaid was uninsured, and that the owners have never received recompense from any source for the loss of said scow *Rowena* or her cargo.

And I further depose and say that the owners of the said scow *Rowena* and her cargo are damaged by the loss of the said scow *Rowena* and her cargo in the sum of $5,690. For vessel, $5,000; cargo, $1,200; total, $6,200, less salvage $510, leaves $5,690, and that said loss resulted from the removal by the United States Government of the pier-head light from the east pier, where it had been placed and maintained as a guide and beacon to mariners in entering said port of Michigan City, Ind., and by erecting a pier-head light on the west pier of said port, where no pier-head light before had been seen, and by lighting the pier-head light thus erected on the said west pier on the night of the 18th day of November, 1874, without giving notice; and said light was not extinguished, and was seen by the master of the said scow *Rowena* between the hours of 3 o'clock and 4 o'clock on the morning of the 19th of November, 1874; thereby the master of the said scow *Rowena* was misled and the said vessel and her cargo was lost.

DE WITT C. BOWEN.

STATE OF KANSAS,
County of ——, *ss:*

Before me, the subscriber, a notary public in and for said county, personally appeared the within-named De Witt C. Bowen, who, being duly sworn according to law, doth depose and say that the facts set forth in the foregoing statement are true to the best of his knowledge and belief. Subscribed and sworn to before me this 7th day of January, A. D. 1886.

[SEAL.]

CHAS. WILSON,
Notary Public.

EXHIBIT C.

De Witt C. Bowen, being sworn, deposes and says: That he has made a thorough and diligent search to find M. Read, who was the captain and master of the scow *Rowena* at the date of the loss of the scow *Rowena* at the port of Michigan City, Indiana, in November, A. D. 1874, and has been unable to find said M. Read; that he has no affidavit of said M. Read relating to the loss of the said scow *Rowena* and her cargo, and is unable to procure such affidavit.

DE WITT C. BOWEN. [L. S.]

Subscribed and sworn to before me, C. H. R. McElroy, a notary public in and for Jackson County, Missouri, this 3d day of February, A. D. 1887.

My commission expires May 4, 1890.

[SEAL.] C. H. R. MCELROY,
Notary Public, Jackson County, Mo.

EXHIBIT D.

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, April 16, 1886.

To whom it may concern:

I hereby certify that the papers appended hereto are true copies of the originals on file in this office.

[SEAL.] HENRY F. PICKING,
Commander, U. S. N., Naval Secretary

OFFICE OF LIGHT-HOUSE ENGINEER, ELEVENTH DISTRICT,
Milwaukee, Wis., November 21, 1874.

SIR: I have the honor to report as follows in regard to the change of the beacon at Michigan City, Ind., authorized and directed by your letter of August 26, 1874.

On the 16th instant the beacon was changed from the east to the west pier, the latter being some 500 feet longest. On account of the stormy weather prevailing it has been impossible to set the day upon which the change would take place. The party has been at work since the 1st of October, building nearly 1,200 feet of elevated walk and moving the beacon. On the 10th of this month, while at Michigan City, I requested the editor of the paper at that place to call special attention to the fact that the beacon was liable to be moved any day of the next week. On my return a similar notice was sent from this office to the following papers: Chicago Tribune, St. Joseph Herald, Grand Haven News, and Muskegon Chronicle.

I see to-day by the papers that four days after the change, a scow from White Lake loaded with lumber went ashore in a storm from ignorance of the change, and was wrecked. The only commerce of the place is in lumber, and the yards are just at the end of the pier, and this very scow had left there some time after the work had been commenced. For six weeks previously, work preparatory to the change was going on right alongside the lumber-yards on the piers, and probably every

vessel trading with the place had seen it. I think the fact that the change was to take place as soon as possible has been as notorious as it well could be with those interested in the commerce of Michigan City.

Very respectfully, your obedient servant,

HENRY M. ROBERT,
Major of Engineers, Light-House Engineer.

Prof. JOSEPH HENRY,
Chairman Light-House Board, Washington, D. C.

[Notice to Mariners. (No. 53, of 1874.) United States of America—Northern and Northwestern Lakes. Lake Michigan, Michigan City, Indiana.]

Notice is hereby given that the beacon-light at Michigan City, Ind., has been moved from the end of the east pier to the end of the west pier.

By order of the Light-House Board:

JOSEPH HENRY,
Chairman.

OFFICE LIGHT-HOUSE BOARD,
Washington, D. C., December 9, 1874.

TREASURY DEPARTMENT,
Washington, D. C., March 8, 1875.

SIR: I transmit herewith for a report on the subject copy of a letter addressed, under date of the 20th ult., to Hon. T. W. Ferry, United States Senate, from Messrs. D. C. Bowen & Co., of Montague, Mich., setting forth the loss of the scow *Rowena* and her cargo, owned by them, by going ashore about 16 feet west of the west pier at the entrance to the port of Michigan City, Ind., alleging that the wreck was caused by the removal of the pier light from the east to the west pier by authority of the Light-House Board without proper notice to owners and masters of vessels, and claiming that the Government should pay them the value of the vessel, $5,000, and cargo, $1,200=$6,200=less salvage, $510=$5,690.

I am, very respectfully,

J. F. HARTLEY,
Assistant Secretary.

Prof. JOS. HENRY,
Chairman Light-House Board, Washington, D. C.

OFFICE OF D. C. BOWEN & CO.,
MANUFACTURERS OF SHINGLES AND LUMBER,
Montague, Mich., February, 20, 1875.

DEAR SIR: We write you concerning the loss of the scow *Rowena*, and cargo, owned by us, wrecked about 16 feet west of the west pier at the entrance of the port of Michigan City, Ind.

The *Rowena* loaded at the dock of Heald, Avery & Co., with lumber, and was towed to the pier at the entrance of White Lake Harbor, November 16, 1874, from whence she sailed bound for the port of Michigan City. The captain, owing to unfavorable winds, would not try to enter

the Michigan City harbor, but took refuge in Chicago. Sailing from Chicago she was becalmed off Michigan City, but on the morning of the 20th November, about 4 o'clock, she undertook to make the port of Michigan City. The wind rising was blowing quite strong from the north, accompanied with snow, making it impossible for the master to discern any object on shore, except the pier light. This being visible he calculated his course in entering the harbor from it, and did not perceive that the light had been removed from the east to the west pier until the vessel was at the end of the west pier and it was too late to change her course, and before anything could be done to save her she was on the beach in the position above described. Efforts were made to release her. They were unsuccessful; she went to pieces with the cargo and was a total loss, except a portion of her outfit and a small portion of the cargo. The pier light was removed on the 16th November, from the east to the west pier. Prior to that time it had always been located on the east pier, and we believe the removal was made without sufficient or proper notice, if any notice can be said to have been given, and at a very dangerous time for vessels. There were not more than two or three vessels sailed into the harbor after the wreck of the *Rowena*.

We take the position that the loss of the vessel and cargo was wholly due to the removal of the pier light, without proper notice to vessel owners and masters of vessels, and we can establish this position. Therefore the removal being done under authority of the Light-House Board, and Government officers, it appears to us that the Government ought to pay us for our loss.

Should be pleased to have you interest yourself in this matter, and if upon examination, it is in your judgment a just and valid claim, to point out the steps necessary to be taken to recover the value of the vessel and cargo. The value of the vessel was $5,000, the cargo $1,200. The salvage, $510. Leaving a net loss of $5,690.

Very respectfully, yours,

D. C. BOWEN & CO.

Hon. T. W. FERRY,
Washington, D. C.

OFFICE OF LIGHT-HOUSE ENGINEER,
ELEVENTH DISTRICT,
Milwaukee, Wis., April 2, 1875.

SIR: The letter of the Board dated the 13th ult., making additional inquiries as to the loss of the scow *Rowena*, at Michigan City, Ind., on the 20th of November last, was duly received, and was not answered until I could obtain copies of some of the papers that published the notice of the proposed change of the beacon from the east to the west pier.

I looked into the matter at the time and was satisfied, as I wrote the Board November 21, 1874, that no one was to blame but the master of the scow. Upon a re-examination of the case my opinion is confirmed. The letters from the owners to Senator Ferry (inclosed in the letter from the Board) states that the *Rowena* left White Lake November 16, 1874, and on account of stormy weather was obliged to take refuge in Chicago, from whence she sailed to Michigan City, arriving on the morning of the 20th, and attempting to enter the harbor in a snow-storm was wrecked about 16 feet west of the west pier. The owners state also

that the master was ignorant of the change of the beacon from the east to the west pier, as he supposed the change would not be made until next season. For these reasons, and because no sufficient notice was given, they claim damages amounting to $5,689.

My foreman reports on this case (a copy is inclosed) that during the six weeks the party was working on the elevated walk before the wreck, the *Rowena* was three times in port; that the inspector of customs was in the habit of visiting the work twice a week, and kept posted as to its exact condition; that it was a matter of public notoriety that the change was to be made as soon as the elevated walk was in condition to reach the end of the west pier. The stormy weather rendered it impossible to set any day when the removal should be made, and yet it seemed best to make the change last fall, because the west pier had been extended 500 feet beyond the east pier, and piles had just been driven at a point on the extension of the east pier 500 feet beyond the beacon, making the entrance very difficult unless the beacon were moved. I found that very few vessels would enter the harbor during the season, and those would be lumber vessels from ports near by that had been in the harbor since the change had commenced. From the letter of the owners it will be seen that there were not more than four that did enter the harbor after that time. The lumber yards are so close to the west pier that the master of a vessel lying at them could not possibly be ignorant of the fact that the change of the beacon was to be made. The owners admit this indirectly by saying he thought it would not be made until next season.

Here, then, we have the master of a vessel entering this harbor three times while the workmen are changing the elevated walk from one pier to the other, or building additional walk, discharging his cargo within a few feet of the end of the pier, getting his clearance papers from an inspector who knows that the beacon is to be changed as soon as the walk is in proper condition, if the weather permitted; and yet he sails from White Lake on the 16th of November, stopping at Chicago till probably the 19th, when he starts for Michigan City in perfect ignorance of the fact that in the marine column of the Chicago Tribune of November 15, was a notice that the change would take place if the weather permitted, and that similar notices had appeared in the Michigan City paper of the previous week (November 13), and other papers on the eastern shore of Lake Michigan of about the same date. I have succeeded in procuring copies of the following papers with the notices of the change, viz: The Chicago, Ill., Tribune, of November 15; the St. Joseph's, Mich., Traveler and Herald, of November 14, and the Michigan City, Ind., Enterprise, of November 13. The notice was sent also to the papers at Grand Haven and Muskegon, though any parties in Michigan City expecting vessels from any port would naturally have sent the master a copy of their own paper of the 13th, containing notice of the change. There was ample time for the master of the *Rowena* to have received a copy from his owners of the Michigan City paper containing the notice. Knowing, as he did, that a party had been six weeks at work preparatory to removing the beacon, he could have had no better notice if the fact had been published in every paper in the country. He should have been on the lookout for the change, and at least have looked in the papers while in Chicago, or inquired there about it In fact, a prudent master, before leaving White Lake, would have written or telegraphed for information, or procured a copy of the latest Michigan City paper.

I can not see the slightest reason for the claim of the owners for damages from the Government.

I inclose herewith the following papers: Copy of report of my foreman, George Dobson; sketch of the harbor, from which will be seen the necessity of making the change last fall; Chicago Tribune of November 15, 1874; Michigan City Enterprise of November 13, 1874; St. Joseph's Traveler and Herald of November 14, 1874; and would call attention to my letter of December 2 and my monthly report of operations of the same date for further information on this subject.

I am, sir, very respectfully, your obedient servant,

HENRY M. ROBERT,
Major of Engineers,
Engineer Eleventh District, Lake Michigan.

CHAIRMAN LIGHT-HOUSE BOARD,
Washington, D. C.

DETROIT, *March* 20, 1875.

SIR: In answer to your note of the 18th in regard of the loss of the scow *Rowena* at Michigan City on the 19th day of November, 1874, I have to say to question, 1st, the piles are driven in a line of other pier-work and at a distance out from the east pier, and from the original place of beacon about 550 feet (more or less); 2d, the facts regarding the knowledge of the removal of the beacon were well known among all the vessels trading at that port, for they all see us at work and changing the work from the east to the west pier, and the *Rowena* had been into that port three times during the short season that we were at that port and should have been on the lookout for the change, for in steering into the harbor he should have met the piles driven in line of east pier and the west pier some distance before he made the light. And as regards the notice in papers, it were in the Michigan City Enterprise and the Chicago Times that the beacon would be moved about the 14th of November, or as soon as weather permit after, and I believe all captains trading in that port were on the lookout for the change, as the collector of the port used to come and see us twice a week and get all the information about the removal that he could, so I should think he would keep the captains posted when they got their clearance papers.

And, sir, the reason we could not set an exact time were because we could not depend on the weather, and when once commenced it were better to keep straight on than leave off at any point short of finishing. And, sir, I told the collector of the port that day that you were there I would have it over by Saturday, weather permitting, but it kept too rough, so I put it over on the Monday following.

And, sir, any questions you may wish to ask I will answer at the shortest notice.

Most respectfully, yours, etc.

GEORGE DOBSON.

Maj. H. M. ROBERT.

A true copy.

HENRY M. ROBERT,
Major of Engineers, Light-House Engineer.

[From the Chicago Daily Tribune, of November 15, 1874.]

MARINE.

* * * * * * *

The light-house engineer, Maj. Henry M. Robert, gives notice that the pier-head light at Michigan City, Ind., will be moved from the east pier to the end of the west pier during the next week, if the weather permits.

[From the Michigan City Enterprise, of November 13, 1874.]

The beacon light will be removed to the west pier the first fair day. This will make a change of range lights, of which captains of vessels will take notice.

[From the St. Joseph, Mich., Traveler and Herald, of November 14, 1874.]

PIER-HEAD LIGHT REMOVED.

OFFICE OF LIGHT-HOUSE ENGINEER,
Milwaukee, Wis., November 12, 1874.

SIR: You are respectfully informed that the pier-head light at Michigan City, Ind., will be moved from the end of the east pier to the end of the west pier during the next week if the weather permits.

By giving publicity to this notice you will no doubt accommodate the shipping trading to that port.

Very respectfully,

HENRY M. ROBERT,
Major of Light-House Engineers.

EDITOR HERALD.

[Extract from the minutes of the Light-House Board, of May 5, 1875.]

The committee on finance, to which had been referred the papers relative to the loss of the scow *Rowena* at Michigan City, and the damages claimed, returned the papers with the following report.

Adopted.

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, May 1, 1875.

SIR: The committee on finance, to which had been referred the papers relative to the loss of the scow *Rowena*, returns the papers and respectfully reports that it has examined the matter carefully, and that the accompanying letter from the engineer of that portion of the eleventh light-house district in which Michigan City is, together with the letter from the foreman who did the work, and the copies of newspapers transmitted, shows that the *Rowena* was lost through the fault of her master, and that no relief can be afforded in the premises.

Very respectfully,

O. M. POE,
Chairman of the Committee on Finance.

The CHAIRMAN OF THE LIGHT-HOUSE BOARD.

o

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 382.

JOHN McMAHAN.

FEBRUARY 16, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 4871.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4871) relative to the petition of John McMahan, late major of the Second West Virginia Cavalry, for an amendment of his military record, having considered the same, report as follows:

John McMahan, late major Second West Virginia Cavalry, at the request of the commanding officer of his regiment was, April 24, 1864, summarily dismissed the service "for gambling, drunkenness, and disorderly conduct," by general orders, Department of West Virginia.

The facts relative to this case are that on April 20, 1864, at the quarters of Capt. Gilmore, at Charleston, W. Va., the petitioner, Capts. Gilmore, Millard, and Waller, and a lieutenant of Capt. Gilmore's company, all of the Second West Virginia Cavalry, assembled for a game of cards, during the progress of which Capts. Millard and Waller had an altercation which did not extend beyond words, and that the petitioner acted as peacemaker; some days after this affair Capts. Millard, Waller, and the petitioner were placed under arrest and ordered to report to Harpers Ferry to await the decision of the military authorities relative to their case. Your petitioner was summarily dismissed and denied a court-martial. The other parties have been restored, received their pay, and honorably discharged. The altercation was not serious in its character, nor were any of the officers implicated even moderately intoxicated at the time. All the officers of the regiment except the colonel, William H. Powell, who was a personal enemy of the petitioner, were surprised and indignant at the action taken, and the testimony shows that he was a brave and efficient officer, and frequently selected for services that required unusual skill and courage.

In support of these facts are filed the affidavits of William S. Merrill, late captain of Company B; Elijah F. Gillen, adjutant; Jeremiah Davidson, lieutenant of Company G; Israel B. Murdock, late captain Company B; and George Millard, late captain Company F. Furthermore, the petitioner was second lieutenant of Company D, —— Regiment Ohio Infantry Volunteers, in the war with Mexico. He raised a company and served as its captain, Company A, Eighteenth Regiment Ohio Infantry, three months' service, and he and Capt. Waller above named were authorized by Governor Pierpoint to raise a regiment of cavalry for the three

years' service and that they each raised a company at their own expense, which served as a nucleus for the Second West Virginia Cavalry.

In honor of his long, efficient, and gallant service for his country and the injustice of his dismissal, equity demands that the charges made through malice or mistake be removed from his military record and that he be honorably discharged.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 383.

REVIVAL OF SUITS IN CERTAIN CASES.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. EZRA B. TAYLOR, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 5568.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 5568) to regulate the revival of suits in certain cases, having had the same under consideration, beg leave to report that in their judgment there is need of the proposed legislation, and that the bill ought to pass.

The objects of the suits contemplated by the bill are in nowise personal to the officer who is made defendant, but such suits are instituted for the purpose of securing official action, and it is or should be wholly immaterial whether one man or another holds the office; yet, as the law now is, the death, resignation, or removal of the person holding the office at the time of the commencement of the action causes an abatement of the suit. This creates delay, increases costs unnecessarily, and may prevent all remedy for wrong or injustice done or duty neglected.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 384.

REVENUE CUTTER FOR SERVICE AT SAN FRANCISCO, CAL.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 3609.]

The Committee on Interstate and Foreign Commerce, to whom was submitted the bill (H. R. 3609) to provide for the construction of a revenue cutter for service in the harbor of San Francisco, beg leave to report as follows:

That the revenue tug *Hartley*, at present performing boarding duty in San Francisco Harbor and Bay, is an old boat and entirely too small for the service required at that port. There is greatly needed for that service a larger boat provided with more modern type of machinery.

In view of the foregoing facts the committee beg leave to report the bill back and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 385.

CORRECTING DESCRIPTION OF CERTAIN LANDS GRANTED TO THE TERRITORY OF DAKOTA.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SEERLEY, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany S. 444.]

The Committee on the Public Lands, to whom was referred the bill (S. 444) granting to the State of South Dakota section 36, township 94 north, of range 56 west, in the county of Yankton, in said State, for the purpose of an asylum for the insane, to correct an act approved June 16, 1880, attempting to make such grant to the Territory of Dakota, and for other purposes, have had the same under consideration and report the same back with the recommendation that it pass.

The act approved June 16, 1880 (21 Stat., 290), purports to grant to the Territory of Dakota, section 36, township 56 north, of range 94 west, in said county of Yankton and Territory, for the purpose of an asylum for the insane, and also one section of land in lieu of said section 36 for school purposes, to be selected by the governor of said Territory from any of the public lands subject to private sale or entry. The record and plats on file in the General Land Office disclose the fact that there was no such land as that described in said act of June 16, 1880, within the boundary of what was formerly known as the Territory of Dakota. In other words, there was no such township in said Territory, and there never has been in either of the States of North or South Dakota a township known as "township number fifty-six north."

It will thus be seen that no such grant of land passed by said act to said Territory as was contemplated. Within a short time after the passage of the act referred to, the citizens of said Territory, under the impression that said act granted to said Territory section 36, township 94 north, range 56 west, for the purpose therein mentioned, caused to be erected thereon, at great cost and expense, a large brick and stone building for the accommodation and care of the insane of said Territory, and it further appears that said building is used for that purpose at the present time by the people of the State of South Dakota, the land upon which it is situated now being in that State. The land intended to be granted to the State of South Dakota by this bill for the purpose of correcting said act of June 16, 1880, attempting to make such a grant to the Territory of Dakota, appears from the tract books of the General Land Office to be vacant public land and free from any claim. It is clear from all the facts and circumstances that the land described in the present bill was the section intended to be granted by said act.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 386.

GAINSVILLE, McCALLISTER AND ST. LOUIS RAILWAY COMPANY.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. ALLEN, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 3626.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 3626) granting to the Gainsville, McCallister and St. Louis Railway Company a right of way through the Indian Territory, and for other purposes, submit the following report:

Your committee, having examined said bill and found that it contained all proper restrictions and limitations and all the necessary provisions for the protection of the Indians usually put in right-of-way bills, report the same back and recommend that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 387.

GAINSVILLE, OKLAHOMA AND GULF RAILWAY COMPANY.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. ALLEN, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 3627.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 3627) granting to the Gainsville, Oklahoma and Gulf Railway Company a right of way through the Indian Territory, and for other purposes, submit the following report:

Your committee, having examined said bill and found that it contained all proper restrictions and limitations, and all the necessary provisions for the protection of the rights of the Indians, report the same back and recommend that it do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 388.

O. P. PHILLIPS.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, of Missouri, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1672.]

The Committee on War Claims, to whom was referred the bill (H. R. 1672) for the relief of O. P. Phillips, submit the following report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 1192, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3552) for the relief of O. P. Phillips, report as follows:

Your committee adopt the report hereto attached, made by the Committee on War Claims of the Fiftieth Congress, and report back the bill and recommend its passage.

[House Report No. 4168, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3789) for the relief of O. P. Phillips, report as follows:

The proof filed in support of the bill shows that O. P. Phillips, late captain of Company C, First Regiment of Missouri State Militia Cavalry, expended the sum of $1,601.75 in furnishing food for his men and forage for his horses before his company was mustered into the service of the United States.

The records of the War Department show that O. P. Phillips was mustered into the military service of the United States as captain with Company C, First Regiment Missouri State Militia Cavalry, February 17, 1862.

The bill requires the claimant to prove to the satisfaction of the accounting officers of the Treasury Department that said rations and forage were furnished as charged, and that they were necessary to the support of said men and horses.

The committee are of opinion that the claimant should have an opportunity to prove his claim, and report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 389.

THOMAS ANTISELL.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4665.]

The Committee on War Claims, to whom was referred the bill (H. R. 4665) for the relief Thomas Antisell, submit the following report:

This claim was presented to the Fifty-first Congress and was reported on by the Committee on War Claims, to whom it was referred.

The investigation of the claim by your committee leads them to the same conclusions as those reached by the Committee of the Fifty-first Congress. It is therefore deemed unnecessary to recapitulate the facts set forth in that report, a copy of which is hereto attached for information.

Your committee recommend that the bill referred to them do pass.

[House Report No. 3591, Fifty-first Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 11242) for the relief of Thomas Antisell, report as follows:

The claimant, Thomas Antisell, late surgeon, United States Volunteers, at the beginning of the late war was the owner and occupier of a small farm adjoining the site of Fort Albany, and situated in Alexandria County, Va.

It appears by the papers on file that in the year 1861 the land was occupied by United States troops under Gen. Heintzleman. A part of the standing timber was used in building the fort, and the remainder, together with the fruit trees and the fencing, was used by troops for firewood.

The occupation of and injury to the farm of the claimant were the unavoidable results of military operations in the face of the enemy, and for which no compensation can be made. Wood used for fuel by the Army, whether forest trees, fruit trees, or fences, may be classed under the head of quartermaster's stores, and the claimant having been a loyal citizen is entitled to a compensation therefor.

Your committee, therefore, report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 390.

W. S. BRANTLY, EXECUTOR OF J. H. BRANTLY, DECEASED.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2836.]

The Committee on War Claims, to whom was referred the bill (H. R. 2836) for the relief of W. S. Brantly, executor of J. H. Brantly, submit the following report:

This measure was considered by this committee in the Fiftieth Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 2764, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3469) for the relief of W. S. Brantly, executor of J. H. Brantly, deceased, report as follows:

That the claim is for a quantity of quartermaster's stores destroyed by the Second Brigade, First Cavalry Division, U. S. Army, at Macon, Ga., in 1865. Claim stated at $450.

It appears from the records and evidence in reference to the subject-matter of this bill and filed in this case that Maj. Gen. Wilson, U. S. Army, commanding cavalry division in Georgia, ordered a board of survey to examine into the loss and damages said to have been sustained by J. H. Brantly at the hands of the United States troops.

This order was issued in pursuance of the policy of the Government recognizing individuals who were public enemies by laws of war by reason of their residence as friendly to the Government, for the purpose of encouraging a sentiment of loyalty to the Federal Government within the insurrectionary territory.

On July 21, 1865, the board of survey met, visited and examined the premises, and took the testimony of witnesses and reported that J. H. Brantly had been damaged by the Second Brigade, First Division Cavalry, to the amount of $450.

The damage consisted in taking from the claimant the following stores:

Rails		8,000	Corn	bushels.	75
Wheat	bushels..	15	Fodder	pounds.	250
Rye	do....	10	Lumber	feet.	2,500
Oats	do....	10	Boards		1,200

This board was composed of officers in actual service, whose sympathies may not be suspected of leaning overmuch to the claimant. It held its sessions in the vicinage of the claimant, and its facilities for proof were better than any civil tribunal that has been constituted to hear such claims; and your committee think its findings are entitled to credit.

It may be said, in addition, the Government afterward furnished tribunals to hear this class of claims. This claimant, presumably relying on the award made by this

board, has not prosecuted his claim elsewhere, and statutes of limitations have run against him. But the committee do not care to rest the allowance on an estoppel *in pais* or anything analogous to it. They prefer to stand upon the awards made as an adjudication of a court created by authority of the Government to hear and adjudicate claims of individuals against it, and to hold such adjudications not formally disapproved by the authority convening the court as final.

The committee therefore report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 391.

CALVIN B. CUNNINGHAM.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHELL, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 804.]

The Committee on War Claims, to whom was referred the bill (H. R. 804) for the relief of the legal representatives of Calvin B. Cunningham, submit the following report:

This measure was considered by this committee in the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[House Report No. 3962, Fifty-first Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 12191) to authorize the legal representatives of Calvin B. Cunningham, deceased, to bring suit in the Court of Claims for the recovery of the net proceeds of cotton taken at Friars Point, Miss., in the year 1863, by the U. S. Army, and turned over to the Treasury agent, and by him sold and the proceeds paid into the Treasury of the United States, having had the same under consideration, make the following report:

Calvin B. Cunningham at the breaking out of the war was a resident of Friars Point, Miss., where he resided in 1863, at which time he was the owner of a large amount of cotton which was stored in his warehouse at that point. The history of this claim is well stated in the affidavit of Capt. Edwin Bancroft, of the U. S. Army, which is among the papers in the case. He says that in October, 1863, by the direction of Gen. Buford, who was in command of the Department of Eastern Arkansas, he accompanied Col. Montgomery, of the Twenty-sixth Wisconsin Infantry, to Friars Point, under instructions to seize all the cotton there was in that place and the immediate vicinity; that he seized over 700 bales of cotton, and in the lot were 63 bales claimed by Cunningham and which was marked in his name; that Cunningham protested against the seizure, and claimed to be a loyal citizen of the United States; that his orders were to seize all cotton; that he took the cotton by boat to Helena, Ark., and reported to Gen. Buford, who dispatched him, with guards, to Memphis, Tenn., to report to Maj. Gen. Hurlburt, who directed him to turn over the cotton to his quartermaster, which he did; that Cunningham's reputation was that of a Union man. He heard of many acts he did at his own great personal risk showing his loyalty. He was treated by all Union officers as a loyal man.

It also appears that shortly after taking this cotton Cunningham was compelled to leave the State of Mississippi on account of the aid he rendered the Federal forces; that he went within the Union lines in Arkansas and from there to Odin, Ill., where he remained until the war was over. He died in 1866, leaving a widow and minor children. This claim was presented for the first time to the Forty-eighth Congress, but no action was taken.

In view of the facts, your committee think that the claimant should be granted a hearing, and report a *substitute for the House* bill, and recommend that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 392.

DAVIDSON DICKSON AND OTHERS.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHELL, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1868.]

The Committee on War Claims, to whom was referred the bill (H. R. 1868) for the relief of Davidson Dickson and others, submit the following report:

This measure was considered in the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 2618, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (S. 923) for the relief of Davidson Dickson and others, report as follows:

Your committee adopt the report, hereto annexed, from the Committee on Claims of the Senate of the present Congress, and report back the bill and recommend its passage.

[Senate Report No. 1032, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 923) for the relief of Davidson Dickson and others, having given the matter careful consideration, submit the following report:

The claims embraced in this bill are for rent, with a single exception, and that for a small amount. They are supported by the original vouchers from the Department, where they were duly presented for payment. These vouchers are all in duplicate, issued under form 22, as prescribed by the Army Regulations, containing the usual certificate that the United States is debtor to the party named; that the account is just and correct; that the services were rendered as stated; and that they were necessary to the public service. They are as follows:

Davidson Dickson, for rent of a building, from November 1 to December 31, 1864, at Van Buren, Ark., used for storing quartermaster's supplies, $40.

W. B. Daniels, for rent of a house and stable, from June 26 to August 1, 1865, for quarters for Lieutenant-Colonel Polk, at Hawkinsville, Ga., $28.

J. C. McCrary, for rent of a warehouse used for storing forage, for June, 1865, at Nashville, Tenn., $12.50.

A. Pike, for rent of a stable used for Government animals, from December, 1864, to June, 1865, at Springfield, Tenn., $100.

The estate of James A. Ralston, for rent of a storeroom for commissary and ordnance supplies, from April 20 to November 30, 1865, at Macon, Ga., $711.25.

E. E. Rawson, for rent of a warehouse, from July 1 to September 10, 1865, at Atlanta, Ga., $233.33; and a further amount of $13 for lumber, also supported by vouchers of the same character.

M. Sparks, for rent of a depot for quartermaster's supplies, during the month of November, 1864, $100.

Trustees of Odd Fellows' lodge, for rent of a building used for a military prison, from April 1 to September 15, 1865, at Pulaski, Tenn., $64.16.

E. Rouff, for rent of a storeroom, from September to November, 1865, at Lavacca, Tex., $45.

E. C. Clements, for rent of ten rooms, used for Army purposes, from July 1 to October 31, 1865, at Macon, Miss., $200.

R. W. Corbin, for rent of a house, from August — to September 15, at Chattanooga, Tenn., $22.50.

J. A. Henry, for rent of a building, from October 1 to November 30, 1864, used for quartermaster's purposes, at Little Rock, Ark., $52.

Robert Stevenson, for rent of a building for blacksmith shop, from May 18 to July 10, 1865, at Grenada, Miss., $54.

Miles S. Draughn, for rent of a building used by Government employés, from December 1, 1864, to April 30, 1865, at Springfield, Tenn., $60.

These claims have been before Congress for settlement for many years. Previous reports have been made in most, if not all the cases, by committees of both Houses, some of them dating back as far as the Forty-fifth Congress. These reports are all favorable. The contracts of the Government ought to be carried out, and all of the claims being supported by proper vouchers representing actual contracts, the committee recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 393.

L. D. SUGG.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHELL, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2010.]

The Committee on War Claims, to whom was referred the bill (H. R. 2010) for the relief of L. D. Sugg, submit the following report:

This measure was considered by this committee in the Fiftieth Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[House Report No. 797, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred House bill 559, beg leave to submit the following report:

The committee have considered said bill and find the facts in relation to said claim fully and accurately set forth in the report from the War Claims Committee, made by Mr. Richardson in the Forty-ninth Congress. They therefore adopt the same as the report of this committee and direct that the bill be returned, with the recommendation that it do pass. Said report is as follows:

This claim has been before Congress by bill and petition for several sessions. The claimant is L. D. Sugg, a farmer who resided during 1863 and since that time in Lincoln County, Tenn. It appears from the proof that he was a quiet, good citizen, that he gave no encouragement to the rebellion, and when the Union army arrived in his country he went forward and took the oath of allegiance. The copy of the oath is on file with the proof, and shows that it was taken by him July 27, 1863. The schedule showing his losses is as follows:

17 head of horses	$2,550.00
6 mules	780.00
80 sheep	320.00
5,700 pounds of bacon	712.50
2,460 bushels of corn	2,360.00
630 cords of wood	3,150.00
6,000 pounds of beef	600.00
78 tons of hay	1,560.00
7 tierces of lard, 2,240 pounds	336.00
Wagon and harness	300.00
Total	12,668.50

It appears from the proof on file that a portion of this property was taken and used by the Army before the claimant took the oath of allegiance, to wit, on July 13, 1863, by Col. Robert Galbraith's command, First Middle Tennessee Cavalry, and other cavalry regiments. The remainder was taken during the month of November, 1863. When the claimant took the oath of allegiance at Fayetteville, Tenn., on the day

named above, he was furnished with protection papers by the United States officer in command there. This paper was such only as was given to loyal men, friends of the Union cause. It is in these words:

HEADQUARTERS UNITED STATES FORCES,
Fayetteville, Tenn, July 27, 1863.

A safeguard is hereby granted to L. D. Sugg, person and property, except forage. All officers, soldiers, and employés of this command are hereby required to respect the same.

By order of Col. Eli Long:

T. J. PATTIN,
Major and Provost Marshal.

The claimant began proceedings to collect the money due him very soon after the war. The Quartermaster-General sent a special agent of the Department to the neighborhood to investigate the claim and make report. This agent took considerable proof, and submitted his report. By some arbitrary rule, not set forth in any way, this agent reports that the claim should be reduced to $5,500, if allowed. He thinks the value placed on the articles was too high, and without proof he makes this reduction. But he finds the proof insufficient on the question of loyalty, because, as he says, "claimant's loyalty is not certified by a United States officer in his application." He therefore recommends the rejection of the claim. This is manifestly unjust to claimant. It is true claimant, in his proof, says "he was opposed to secession at the outset, but after his State seceded he was with his State and people." Yet the proof is perfectly clear he did nothing and said nothing showing disloyalty, on the other hand, as set forth, he availed himself of the very first opportunity to take the oath of allegiance to the Union, and he studiously and faithfully observed it. Claimant says, in his affidavit on file in this cause, that "he was opposed to disunion, but when his State voted to leave the Union he acquiesced in that action," but that when he "took and subscribed to the oath of allegiance to the Government it was in perfect good faith, and was done voluntarily in compliance with the general orders of the proper authorities made public at the time, and that he at no time took any part whatever in the war, and that he maintained said oath of allegiance in true faith at all times."

The proof shows claimant to be a man of probity of character and of perfect veracity. The committee have no doubt that injustice was done him by the Department, in acting upon the report of the special agent and disallowing his claim for want of proof of loyalty. There might be some reason in finding him not loyal before July 27, 1863, the date of taking the oath by him, but certainly not subsequently to that time. It is not clear but that the Quartermaster-General acted upon the assumption that the proof did not show that the property was taken after the claimant took the oath. He bases his action upon the ground that the property may have been taken before claimant took the oath. The report of the special agent bears date November 18, 1878. Subsequent proof to this report, on file, shows that nearly all the property was taken in November, 1863, by the army of Gen. Sherman, while en route from Vicksburg to Chattanooga. The time is clearly shown, and it being in November, it was nearly four months after he had taken the oath of allegiance.

The committee are clearly satisfied of the loyalty of claimant. He was unquestionably loyal after July 27, 1863, the day he took the oath, and when he received protection papers for himself and property from the United States officers in command in that section of country.

While the committee are also satisfied that claimant's loss was considerably more than $5,500, yet, as stated, the special agent of the Department having placed it at that sum, it is adopted by the majority of the committee. The writer of this report thinks the whole amount should be allowed claimant.

Your committee therefore report the accompanying bill H. R. 10015, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 394.

ESTATE OF ALEXANDER POLAND.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1708.]

The Committee on War Claims, to whom was referred the bill (H. R. 1708) for the relief of the estate of Alexander Poland, submit the following report:

This measure was considered by this Committee in the Forty-ninth Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill with the following amendment:

In lines 6 and 7 strike out "thirteen thousand" and insert in lieu thereof "eight thousand eight hundred and eighty-five."

[House Report No. 2761, Forty-ninth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 4313) for the relief of Margaret A. Poland, administratrix, beg leave to report that they have duly considered the same, and recommend that it do pass, with the amendment hereinafter set out.

The facts disclosed by affidavits on file and submitted in support of this claim are as follows: Claimant's husband, Alexander Poland, was, prior to the late war and up to the time of his death, a resident of Loudoun County, Va. At the commencement of the war he was in independent circumstances. He owned a farm containing 221 acres, located on the Winchester pike, about 2 miles west of Leesburg, which was well stocked with horses, cattle, hogs, and sheep. He also owned a house situated on a lot containing 2 acres of ground within the corporate limits of Leesburg, and was regarded by his neighbors and the members of his family as worth fully $50,000.

The family consisted of Alexander Poland, his wife, the claimant, and ten children. Officers of the United States Army who knew him from early manhood, and were raised in the same neighborhood with him, certify to his loyalty to the United States Government, and their testimony is supplemented by that of loyal neighbors, and the recital of specific acts of devotion to the Union cause on the part of Poland and members of the family. It is shown that after the battle of Ball's Bluff, at a time when Leesburg was within the Confederate lines, his family excited the hostility of old friends in Leesburg by visiting disabled Union soldiers and administering to their wants. It is also shown that Poland entertained at his own house people from the North who came to look after disabled soldiers in the Union Army, and rendered such valuable assistance in one instance that it was a subject of newspaper comment and commendation in the section from which the strangers came. It is also shown that the claimant, Alexander Poland's widow, concealed and successfully protected Union soldiers from capture when hotly pursued by the Confederates, concealing them in an upper apartment, the entrance to which was through a trapdoor, which was hid from view by the head of her bed, and that she furnished shoes and

clothing to supply their necessities, and thus rendered their escape to the Union lines possible; that had she not succored them they would have been recaptured, because it was winter time, the ground was frozen and snow covered, and the escaping Union soldiers had lost their shoes and much of their clothing, and came to her husband's house so badly used up with cold that they could go no further. The Confederates were in close pursuit, arriving at Poland's house shortly after the Union soldiers, and being in possession of information that the escaping Federals had been seen to go there, twice searched the house.

The evidence also shows that Alexander Poland gave to the Union soldiers whatever they wanted, and that he excited the hostility of Mosby's command to the extent that six of them, disguised as Union soldiers, entered his house on the evening of November 27, 1863, and killed him in the presence of his wife and children, while he was in the act of cutting bread and slicing meat for Union soldiers, on whom he was waiting at his own supper-table, the Union soldiers having come in to supper from a picket post near Poland's house. The evidence discloses the fact that Poland was killed for feeding Union soldiers and furnishing supplies to the Union Army, and was so notorious, and was boasted of in the presence of claimant and her witnesses the day following the killing of Poland, and while his body lay unburied, by the men who had done the deed, two of whom were personally known to the claimant. These men were part of Mosby's force who occupied Leesburg on the morning of November 28, 1863, upon the withdrawal of the Union cavalry. They rode up to Mrs. Poland's house and told her they would kill her too if she fed any more Union soldiers. It is also shown by the testimony of one of the officers of the "Loudoun Rangers" (Union), commanded by Capt. Means, that one of Mosby's men, whom they captured a few days after Poland was killed, boasted that they had killed Alexander Poland for furnishing supplies to Union troops. The evidence shows that there was furnished from time to time from Poland's farm and from his residence the following quartermaster and subsistence stores and other property:

Lindon McFarland swears, under date of March 5, 1874, that during the year 1863 he lived on Alexander Poland's farm; that he found it well stocked with cattle, horses, and hogs; that during the year six horses were taken from the farm for the use of the Union Army, the property of Alexander Poland; that they were taken under the following circumstances:

"James Orange and I were plowing in the month of June, 1863, in the cornfield, when a regiment of cavalry passed from the direction of Winchester, Va., and a squad of some five or six came into the field and took two of the horses with which we were plowing corn; one of the horses was a sorrel mare about seven years old and 15 hands high, a valuable animal, and worth at the time $250. The other was a bay horse about six years old, 16 hands high, and worth fully as much as the other mare, that is, $250. There were also taken during the year four other horses; one of them was a dark-brown mare about nine years old, worth $150, a horse named "Archie," a dark bay, large and strong, about seven years old, worth $250; a sorrel horse, some six or seven years old, 15 hands high, a valuable horse, worth fully $275. Mr. Poland, after the above-described horses were taken, borrowed of me my mare, about twelve years old, about 12 hands high, color dark bay, for his farm purposes. This horse was also taken for use of United States Army, and as I had loaned the horse to Mr. Poland, and as it was taken while in his employment, he paid me for it the sum of $176."

McFarland also swears, from information and belief, to the taking of seven other horses from Poland for the use of the United States Army, making thirteen in all. He swears to the taking of 3,000 pounds of bacon, worth from 20 to 25 cents per pound, and, from information and belief, to the taking of a large number of sheep. He swears to the taking of six milk cows from the farm, and two from Poland's house in town, making eight in all, worth $50 each. He swears to the consumption of a mile and a half of fencing. He swears also to the furnishing of five barrels of corn to Capt. Means's company of Loudoun Rangers, November 25, 1863, for which Poland paid one Vandivere $7 per barrel, as his own was not in good condition for feeding. Alexander Poland, son of claimant, swears, under date of March 20, 1874—

"There were taken from this farm for the use of the several commands of the Union Army between twenty-five and thirty head of cattle. These were corn fed, very fat, and ready for market, and worth not less than $80 apiece; some of them were large, and worth fully $120 in market. As well as I can remember, there were eight milch cows taken, from thirty to forty head of hogs, and from twenty to thirty head of sheep; there were also about thirty tons of hay, a mile of fencing, and from forty to fifty bushels of corn, and about 500 bushels of oats."

He also testifies to the taking of the thirteen horses, and swears to the taking of a new spring wagon and double harness, by order of Gen. Geary, for use as an ambulance. He swears the horses were worth on an average $200 apiece; that his father had been offered and refused $500 for one pair of them; he also swears the hogs were worth from $15 to $20 on an average; and the sheep $8 per head; and that the hay

was worth $1.25 per hundred pounds; and that the value of corn was at that time from $6 to $7 per barrel, and oats from 70 to 80 cents per bushel; he also swears to the taking of 3,000 pounds of bacon from his father's house in Leesburg, worth all the time 20 cents per pound; and to the delivery of the 5 barrels of corn to Capt. Means, which immediately led to the killing of his father.

James E. Poland, another son of claimant, swears to the taking of a lot of about 80 head of cattle, which his father had purchsed and paid $7,000 for, but had not been upon the farm, and that they were taken for the use of the Union Army; he corroborates other witnesses as to taking of hogs and farm products.

The evidence further shows that none of the above property was ever paid for by the United States, and that the Confederates destroyed Poland's papers, so that whatever evidence of indebtedness on the part of the United States ever existed was destroyed.

The committee find that there was taken for the use of the Union Army from said Alexander Poland, for which no compensation has been rendered, the following property:

13 horses (which the committee value at $150 each)	$1,950
25 fat cattle, at $40	1,000
8 milch cows, at $35	280
80 head of cattle, at $40	3,200
30 head of hogs, at $15	450
20 head of sheep, at $5	100
40 barrels corn, at $5	200
500 bushels of oats, at 70 cents	350
30 tons of hay, at $25	720
3,000 pounds bacon, at 20 cents	600
5 barrels of corn delivered at Point of Rocks, at $7	35
	8,885

The item of hogs taken from the slaughterhouse is not so specifically proven as to warrant a recommendation of payment; the 80 cords of wood for which claimant asks payment is presumed to be the mile or mile and a half of fencing used as fuel or destroyed by the Union forces; payment for this item ($320) is not recommended, because it is not proven with sufficient certainty. The evidence shows conclusively to the committee the taking of the foregoing property. The lowest quantities stated in claimant's evidence have in each case been adopted as the amount for which payment shall be recommended, and the lowest price named has been fixed thereon as a rate of valne. Claimant's petition shows property to the amount of $18.285 has been furnished the Union Army. The committee find to be justly due claimant not less than $8,885, and recommend that the bill do pass, with the following amendment: In line 6 strike out the words "twenty-one thousand dollars" and insert "eight thousand eight hundred and eighty-five dollars" in lieu thereof.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 395.

WILLIAM LARGE.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4353.]

The Committee on War Claims, to whom was referred the bill (H. R. 4353) for the relief of William Large, submit the following report:

The claim was referred to the Quartermaster-General, and was treated by him as one for the value of property taken by a soldier into service, and turned over by him or taken from him on proper order. It is not such a claim. The horse and equipments belonged to a soldier, but it was not taken into the military service by him. It was taken by United States troops from the claimant's home in Lawrence County, Ky., in October, 1861.

The claim was transmitted by the Quartermaster-General to the Third Auditor of the Treasury Department, and was disallowed by the Third Auditor for the reason that it was barred by the act of March 3, 1879.

The claimant was a private in Company G, Fourteenth Regiment Kentucky Volunteer Infantry, and his claim is for the value of a horse and equipments taken from his home by United States troops in October, 1861.

Your committee is satisfied that the horse and equipments were taken and used by the Army, and that the claimant should be paid for their value, and report back the bill and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 396.

THOMAS M. MATHENY.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4354.]

The Committee on War Claims, to whom was referred the bill (H. R. 4354) for the relief of Thomas M. Matheny, submit the following report:

The claimant, Thomas M. Matheny, was employed as a scout for the United States Army, from the last of April or early in May, 1863, and served continuously for sixteen months, or nearly so. Although he applied to be enrolled, he never was, and the records and reports in possession of committee show that he has applied to the proper departments for relief. None could be granted him, for the reason he was never enrolled. He now asks to be paid for his services as such scout, and that his name be placed on the muster roll of Tenth West Virginia Regiment, of late war, by the Secretary of War, and that he be entitled to all the benefits of all acts heretofore passed for benefit of soldiers of late war, which, in the opinion of your committee, ought to be granted by the passage of this bill.

Your committee, therefore, recommend that the said bill (H. R. 4354) do pass, with an amendment as follows:

Strike out, in lines 3 and 4, in section 1, "one thousand five hundred dollars," and insert in lieu thereof, "eight hundred dollars."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 397.

C. AUGUSTA URQUHART.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 99.]

The Committee on War Claims, to whom was referred the bill (H. R. 3240) for the relief of C. Augusta Urquhart or her legal representatives, submit the following report:

The claimant alleges a claim against the United States for the use and occupation of property by the United States authorities during the late war, situated in the city of New Orleans, State of Louisiana.

It seems to your committee that an investigation by the Court of Claims is a matter of necessity before intelligent action can be had upon this case.

The committee therefore report herewith a resolution referring the claim to the Court of Claims for a finding of facts under the provisions of the act of March 3, 1887, commonly known as the Tucker act, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 398.

EDWIN GOMEZ.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims submitted the following

REPORT:

[To accompany Mis. Doc. 98.]

The Committee on War Claims, to whom was referred the bill (H. R. 1236) for the relief of Edwin Gomez, submit the following report:

The claimant obtained letters patent No. 34057 of the United States in 1862 for the manufacture of quick-firing fuse. Under this patent he manufactured fuse very extensively, and the same was made use of by the Army and Navy of the United States.

On October 26, 1863, Mr. Gomez was arrested by the United States authorities, his books and papers seized upon, his business entirely destroyed, and he was confined in Fort Lafayette. On March 17, 1864, he was discharged. On the same day he was rearrested and imprisoned in Ludlow street jail, but the United States courts ordered his release the next day. In consequence of the said arrest and the destruction of his business and the confiscation of his books and papers, he suffered great pecuniary loss and his business was ruined.

The claim is one of considerable magnitude, involving grave questions of law, and it seems to your committee that an investigation by the Court of Claims is a matter of necessity before intelligent action can be had upon this case, and the history of the transaction is susceptible of proof, and while this is true the committee desire the benefit of such proof outside of the *ex parte* statements of the petitioner.

The committee therefore report herewith a resolution referring the claim to the Court of Claims for a finding of facts under the provisions of the Bowman and Tucker acts, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 399.

CATHARINE M. PRITCHARD.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 97.]

The Committee on War Claims, to whom was referred the bill (H. R. 3234) for the relief of Catharine M. Pritchard or her legal representatives, submit the following report:

The claimant alleges a claim against the United States for the use and occupation of property by authorities of the United States in New Orleans, La., during the late war.

It seems to your committee that an investigation by the Court of Claims is a matter of necessity before intelligent action can be had upon this case.

The committee therefore report herewith a resolution referring the claim to the Court of Claims under the provisions of the act of March 3, 1887, commonly known as the Tucker act, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 400.

MRS. AMELIA A. H. RICHARDS.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 6128.]

The Committee on War Claims, to whom was referred the petition of Mrs. Amelia A. H. Richards, submit the following report:

This measure was considered by this committee in the Forty-fifth Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and report herewith a bill for the relief of the claimant and recommend its passage.

[House Report No. 204, Forty-fifth Congress, second session.]

The Committee on War Claims, to whom was referred the petition of Mrs. Amelia A. H. Richards, administratrix of the estate of Felix Richards, late of Fairfax County, Va., having considered the same, report:

That the said Mrs. Richards resided with her husband on a farm of one hundred and fifty-six acres, known as "Volusia," in Fairfax County, Va., at the breaking out of the war. During the entire rebellion the region of country in which the farm was situated was the theater of war, a considerable part of the time of a guerrilla character; the main portion of the time, however, the property being occupied by Union troops. In August, 1861, Gen. Kearney's brigade occupied the farm, and the tents of Gen. Kearney and his staff were pitched in the yard; the said officers were frequently entertained and provided for by the said Felix Richards. A safeguard was given and strict orders issued to protect the property of Mr. Richards, his loyalty being undisputed. In spite, however, of all this, several outbuildings were destroyed, fields of corn were stripped, and growing crops were taken or destroyed. Several of the outbuildings were taken for the construction of quarters and floors of tents, and were largely used in that way; among others, a hospital tent was constructed entirely from materials taken in that way.

Claim is made by Mrs. Richards for fencing, wood, buildings, such as carriage and machine house, ice house, stable, corn houses, etc.; for hay, oats, corn growing in the ear; for horses, carriages, lumber, cattle, ducks, turkeys, geese, pigs, sheep, etc.; the damage to land by destruction of fruit and ornamental trees; in all, amounting to $15,272.

It appears that several brigades of United States troops camped upon Mr. Richards's place. Succeeding Gen. Kearney's command, among others was that of Gen. Howard, which occupied Volusia for six months in the year 1862, which officer makes the following statement: "With reference to the wood and fences, I think there is no exaggeration in the accompanying statement (referring to the claim made by Mrs. Richards). My brigade used a great deal of wood, and other brigades close by did the same." It also appears that a contract was entered into between Mr. Richards and Col. Cross, whose command succeeded Gen. Howard's, by which Mr. Richards was to furnish wood then cut and corded on the farm, and a large

amount of this wood was actually delivered, for which payment was not made, by reason of the fact of the transfer of that command to another point. Gen. Sykes's brigade, as well also as the commands at Forts Worth and Ward, also used wood from Mr. Richards's farm.

There is abundant testimony as to loyalty of Mr. Richards and his family; among others being the certificates of Col. Kellogg and Maj. Smith, of the Nineteenth Connecticut Infantry, which for a long time was on duty in the forts adjacent to Alexandria. Various staff officers of Gen. Kearney also commend Mr. Richards and his family as entitled to consideration at the hands of all Union officers. F. D. Sewell, A. A. G. on Gen. O. O. Howard's staff, also indorses Mr. Richards very strongly, as does Gen. Miles, then colonel of the Fifth Infantry. Gen. Barlow, on June 10, since attorney-general of the State of New York, commends Mr. Richards very strongly to the favorable consideration of the military authorities at Washington, and recommends that he be appointed in one of the departments. There are also letters from Gen. Howard and Gen. Duryea, who state that the property of Mr. Richards was used by the troops, and that it should be paid for.

In the judgment of your committee, the proof sustains the taking of fifteen hundred panels of fencing, worth 75 cents per panel; one thousand cords of wood, at $3 per cord; fifteen tons of timothy hay, worth $20 per ton; ten tons of oats, at $20 per ton; five horses, at $150 each; ten thousand feet of new lumber, for building barracks and floors of tents, worth $200; five head of cattle, worth $140; four hogs, worth $20; and ten thousand brick, at $6 per thousand.

The proof submitted fully warrants the conclusion that the property above mentioned was taken for the use of the Army, and was actually used by it. Claim is made for destruction of property, such as outbuildings, etc., for damages to growing crops, and to land by the drilling of the soldiers thereon, as well as for a large number of farming utensils, taken, used, and destroyed, which your committee regard as in the main the depredations of private soldiers and the ravage of war, for which the Government is not and can not be held legally responsible.

The committee therefore report the accompanying bill appropriating the sum of $6,335, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 401.

W. H. HUSON.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CLANCY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 6129.]

The Committee on War Claims, to whom was referred the bill (H. R. 2044) for the relief of W. H. Huson, respectfully report:

It is alleged that in 1861 the petitioner leased a farm adjoining the corporation of the city of Georgetown, D. C., known as the Spring Hill farm, owned by Mr. McKenny, for the term of three years, at an annual rental of $600; that during the years 1861 and 1862 United States troops took from the petitioner stores and supplies of the value of $3,091.50. The petitioner made no complaint to the War Department, nor asked any relief from that quarter; nor did he make any claim at all until 1890, twenty-nine years after his loss. This long delay is not explained in his petition.

It seems to your committee that an investigation by the Secretary of War, or under his direction, is a matter of necessity before intelligent action can be had upon this case.

The committee therefore report herewith a bill conferring power upon the Secretary of War to have the case investigated through the Quartermaster's Department, and to report the result with his recommendation thereon, to Congress for its action in the premises, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 402.

ODD FELLOWS' HALL ASSOCIATION, NEW ORLEANS, LA.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 96.]

The Committee on War Claims, to whom was referred the bill (H. R. 5921) for the relief of the Odd Fellows' Hall Association, New Orleans, La., have had the same under consideration and beg leave to report as follows:

Your committee are of the opinion that this claim should be referred to the Court of Claims for findings of fact and report herewith a resolution and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 403.

CREDITORS OF THE BANK OF LOUISIANA.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3229.]

The Committee on War Claims, to whom was referred the bill (H. R. 3229) for the relief of the creditors of the Bank of Louisiana, in bankruptcy, submit the following report:

The facts out of which this bill for relief arises will be found stated in a brief filed with the committee by the attorney in the case, which is appended as a part of this report.

Your committee therefore report back the bill and recommend its passage.

[House bill No. 3229, for the relief of the creditors of the Bank of Louisiana, in bankruptcy.]

To HOUSE COMMITTEE ON WAR CLAIMS:

Claimants under this bill seek to recover, or to have refunded to them, as the creditors of said bank, now in bankruptcy, certain moneys or funds which were seized by orders of Gens. B. F. Butler and N. P. Banks, while in command of the Department of the Gulf during the war of the rebellion; and they ask such relief solely upon facts of record in the Treasury Department, as shown by Ex. Doc. No. 101, communicated to the House in response to House resolution of February 13, 1886, and filed in this cause.

The following are the facts touching the items insisted on by claimants, which fully and clearly appear from said Ex. Doc. No. 101, and are wholly relied on in support of the justice of their claim.

FACTS.

In 1858 one George Law, of New York, was the owner of a bark called *The Grapeshot*, which was sold by the district court of the United States in Louisiana, under a libel suit instituted by a firm in Rio Janeiro, Brazil, to enforce the payment of a bottomry bond executed by the master of the vessel on the bark at Rio Janeiro, to secure a certain loan of money made by said firm to enable the bark to make a pending voyage.

Under such sale the vessel brought $15,861.05 in gold, which was deposited in the registry of the court. (See said Ex. Doc., p. 2.) And when Gen. Butler, in 1862, as military commander at New Orleans, seized said Bank of Louisiana, he found that said sum had been drawn out by the clerk of the circuit court of the Confederate States against his account as clerk of the circuit court of the United States; whereupon he charged the same to the bank and exacted payment thereof.

To replace said sum the bank, through its officers, executed and delivered to Gen. Butler a draft for £3,000 (see Ex. Doc., 101, p. 2) which in August, 1862, was sold by John J. Cisco, Assistant United States Treasurer, for the sum of $16,773.90, and was covered into the Treasury (see Ex. Doc., No. 101, p. 8).

It further appears from said Ex. Doc., p. 2, that in May, 1876, said George Law paid off in full the judgment of the court on said bottomry bond, and was subroga-

ted to all the rights of the libelants; and in consequence thereof, Congress by act of April 24, 1880, directed the payment to George Law, of the sum of $15,861.05, that being the amount realized by the sale of his vessel, *The Grapeshot*. In obedience to said act, the Treasurer by warrant No. 933 paid off said Law, leaving still in the Treasury due to the Bank of Louisiana a balance $912.40—this being the difference between the sum of $16,773.40 realized on sale of said draft, and the sum of $15,861.50 paid out of it to George Law under said act.

On page 3 of said Ex. Doc. it also appears that under order of Gen. Banks, of February 19, 1864, Col. Holabird sold the notes of the Bank of Louisiana which had been seized and turned over to Capt. J. W. McClure, realizing therefrom the sum of $99,905.80, which he accounted for to the Treasury in his sequestration account as money received during the month of February, 1864; and out of this sum of $99,905.80 the following payments have been made, viz:

On judgments of the Court of Claims:	
To J. A. Simpson	$12,630.42
To E. E. Simpson	28,380.13
To Henry Skipwith, executor	27,339.56
Under act of Congress of January 14, 1885, to John A. Armfield	18,000.20
Total paid out	86,350.31

Now by subtracting the amount shown to have been paid out, viz $86,350.31, from the amount of $99,905.80, proceeds of the sale of the notes of said bank, there remains still in the Treasury of this fund a balance of $13,555.49, due the bank or its creditors. Then by adding to this balance of $13,555.49 the sum of $912.40, remaining in the Treasury, as shown above, from the proceeds of the sale of the £3,000 draft exacted of the bank by Gen. Butler, we have the total sum due the bank of $14,467.89.

CONCLUSION.

Under the foregoing brief statement of the facts of record, eliminated as nearly as possible from such other matter contained in Ex. Doc. No. 101, not bearing upon the items insisted on by the creditors of the bank, the following conclusions are submitted, viz: That by orders of Gens. Butler and Banks there were seized of the funds of the Bank of Louisiana, at one time, the sum of $16,773.90, and at another time $99,905.80, making a total of $116,679.70; that this fund was placed to the credit of the United States Treasurer; and that subsequently the Government has admitted the correctness of these facts in returning, by special acts, to J. A. Simpson, F. E. Simpson, Henry Skipwith, and George Law, also creditors of the bank, $102,211.81 of said fund, leaving still in the Treasury a balance of $14,467.89, belonging to the bank or its creditors.

Claimants therefore, in seeking to recover said balance, are but respectfully asking under this bill for their own money, which has been withheld from them for more than a quarter of a century. They are asking, too, in fact, no new legislation, but simply that Congress extend to them the benefits of the principle already adopted and acted upon in refunding to J. A. Simpson, *et al.*, creditors of said bank above mentioned, their portions of said funds seized from the bank by said generals. Nor do the creditors seek any appropriation from the funds of the Government, but only the return of what is clearly their own money.

They earnestly and most respectfully insist that in granting the relief sought under this bill Congress will be acting in accordance with that beneficent principle which prevailed even amid the fiercest periods of the war, when the property of the citizens was taken or seized and in harmony with that high justice whose plea can never be denied.

There being no complicated legal principles involved in the consideration of this cause, we submit it upon the foregoing presentation of the facts, with the request that the bill now pending be so amended as to direct the payment of $14,467.89, as herein set forth, and that the same be recommended for passage.

Respectfully submitted.

ARNELL & BULLOCK,
Attorneys for Creditors.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 404.

HEIRS OF GERARD WOOD, DECEASED.

FEBRUARY 17, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CLANCY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5641.]

The Committee on War Claims, to whom was referred the bill (H. R. 5641) for relief of the heirs and legal representatives of Gerard Wood, deceased, submit the following report:

This measure was considered by this committee during the first session of the Fifty-first Congress, and was reported upon favorably (Report No. 2770), which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 2770, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 4991) for the relief of the heirs and legal representatives of Gerard Wood, deceased, report as follows:

That the claim is for five years' full pay of surgeon's mate in the Continental line of the Army of the Revolution and is based on resolutions and acts of Congress of 15th of May, 1778, the 21st of October, 1780, and the 22d of March, 1783, which promise and provide for an allowance of half pay for life or five years' full pay in lieu thereof to such officers of the Army of the United States as should continue in service to the end of the war, or who should become supernumerary subsequent to the 21st of October, 1780.

In support of the allegation that Gerard Wood, deceased, served as a surgeon's mate in the Continental line of the Army of the Revolution your committee find an official certificate, dated Treasury Department, Third Auditor's office, June 20, 1850, showing from the books containing the Revolutionary records of that office that there has been a settlement with Dr. Gerard Wood, a surgeon's mate in a Maryland regiment, and that one of them, in his account, was pay from 1st August, 1781, to 1st April, 1783.

Further, they find from a certificate, dated 18th of January, 1850, from the register of the land office of Maryland, that in a distribution of bounties of land to the officers and soldiers of the Maryland Continental line, certain lots of land to the number of four, lying in Allegany County, were awarded to the aforesaid Gerard Wood, deceased. Your committee find from the official certificate of the Treasury Department that Gerard Wood, deceased, was in service on the 22d day of March, 1783, when the commutation law was passed by Congress, and that he served until the end of the war, the final settlement with him being to the 1st April, 1783.

They also find that at the second session of the Thirty-third Congress a bill was passed by the Senate of the United States providing for five years' full pay of surgeon's mate in the Continental line to the legal representatives of the aforementioned Gerard Wood, deceased, that this bill upon being reported to the House was referred to the Committee on Revolutionary Claims, which committee recommended its pas-

sage. It will thus be seen that this claim has already received the favorable action of the Senate; it having passed that body the 12th day of February, 1855. It was also favorably reported on by the Committee on Revolutionary Claims in the House of Representatives a few days after the date of its passage by the Senate.

Your committee further find that this allowance by Congress of claims similar to the one under consideration has been of frequent occurrence, and that during the pending of this claim before the Thirty-third Congress, a bill was passed by that body allowing to the legal representatives of Joseph Savage, deceased, a surgeon's mate in the Virginia Continental line, five years' full pay as provided for in such cases.

Lastly, your committee find that in taking the reports of the various committees on Revolutionary claims and the aggregate legislation of Congress on the subject it seems to be well established that surgeon's mates who served in the Army of the United States to the close of the war of the Revolution are entitled to the commutation pay as claimed in this case and that numerous bills for the relief of the heirs and legal representatives of such claimants have been passed by Congress.

Your committee therefore recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 405.

TERMS OF UNITED STATES CIRCUIT AND DISTRICT COURTS AT CUMBERLAND, MD.

FEBRUARY 18, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. CULBERSON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 5755.]

The Committee on the Judiciary recommend the passage of the accompanying bill, to provide for terms of the United States circuit and district courts at Cumberland, Md.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 406.

DISQUALIFYING JUSTICES, JUDGES, ETC., IN CERTAIN CASES.

FEBRUARY 18, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. OATES, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 8.]

The Committee on the Judiciary, having had under consideration House bill No. 8, report an amendment in the nature of a substitute therefor and recommend its passage.

The reasons of the committee are apparent on the face of the bill and the substitute.

It is highly creditable to our Federal judiciary that for one hundred years Congress did not find it necessary to pass any disqualifying statute. Our judges, with a praiseworthy sense of propriety, declined to try causes in which they were interested or related to either of the parties to the litigation; but of late years there have been cases wherein the judge, though related or interested, and objected to for that reason, proceeded to hear and determine such causes.

According to the stern morality of the common law the judge must be legally indifferent between the parties. The slightest pecuniary interest disqualifies him. Relationship within the fourth degree by the civil law unsettles that equipoise which justice demands from the bench; and relationship within that degree of affinity is frequently quite as strong as relationship by consanguinity. No judge ought to act in any case wherein he is thus related or interested, nor even in a case wherein his own skill, learning, or reputation as a lawyer may be in question. He should not sit nor act in any case in which he may reasonably be supposed to be biased in favor of or against either of the parties. The books of the common law are full of this doctrine. So, too, are the decisions of many courts of last resort. It requires this measure of disinterestedness and impartiality in the judge to secure the administration of evenhanded justice and to command the confidence and respect of the litigants and the public; and any judge or court whose perfect integrity and impartiality are seriously questioned had as well be discontinued or abolished, because his usefulness is thereby destroyed.

The substitute provides, as did the bill, that the disability may be waived by the parties.

VIEWS OF THE MINORITY.

The undersigned, members of the Committee on the Judiciary, respectfully submit the following minority report on House bill No. 8.

That said bill should be amended as follows by striking out the provisions—

Or in which is called in question the validity of any judgment or judicial proceeding in which he was of counsel, or the validity or construction of any instrument or paper prepared or signed by him as counsel or attorney.

And inserting in the stead thereof the following provisions:

Or in which it is sought to invalidate any judgment or other judicial proceeding in which he was of counsel, or in which it is sought to invalidate any instrument in writing drawn or signed by him as agent, counsel, or attorney.

The provisions of the bill as reported by the committee are sufficiently broad to disqualify a judge where the validity of any judgment or judicial proceeding in which he was counsel, or any instrument or paper prepared or signed by him as counsel or attorney, is called in question collaterally. If in the trial of an ejectment suit the the validity of a deed prepared by the judge at some anterior date, between other parties, should be called in question he would at once become disqualified. It is unnecessary to cite instances where, after a lengthy trial, and the accumulation of large costs, the judge might be forced to retire from the bench because the validity of some collateral proceeding in which he was counsel should be called in question.

The amendment suggested will disqualify him to act where the validity of the proceeding or intsrument is the gist of the action, but not where it arises collaterally and may be of no material consequence.

W. D. BYNUM.
D. B. CULBERSON.
JNO. A. BUCHANAN.
JAMES BUCHANAN.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 407.

EXCLUSION OF CHINESE.

FEBRUARY 18, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. GEARY, from the Committee on Foreign Affairs, submitted the following

REPORT:

[To accompany H. R. 6185.]

The Committee on Foreign Affairs, having had under consideration House bill 37, report the accompanying bill as a substitute for the same, and recommend that it do pass.

VIEWS OF THE MINORITY:

The undersigned, minority of the Committee on Foreign Affairs, do not assent to this bill, which absolutely prohibits the coming into the United States of all Chinese persons, except the minister from China, his attachés, servants, etc., because the bill is, as the minority think, in conflict with the treaties existing between the Empire of China and the United States, and to which the faith of the United States is pledged.

CHAS. E. HOOKER.
ROBERT R. HITT.
JOHN F. ANDREW.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 408.

LEAVE OF ABSENCE TO EMPLOYÉS IN THE BUREAU OF ENGRAVING AND PRINTING.

FEBRUARY 18, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. DUNGAN, from the Committee on Labor, submitted the following

REPORT:

[To accompany H. R. 4537.]

The Committee on Labor, to whom was referred the bill (H. R. 4537) to allow thirty days' leave of absence to employés in the Bureau of Engraving and Printing, respectfully report:

Your committee find the facts to be, that, while the employés of all other Departments and Bureaus of the Government are allowed leave of absence for a period of thirty working days in each year without loss of pay, the employés of the Bureau of Engraving and Printing, by the act of March 3, 1887, are allowed such leave of absence for only fifteen days in each year. A subcommittee of this committee personally visited the Bureau and made investigation of the subject-matter embraced in this bill, and found that the kind and quality of the labor in the Bureau and the conditions of its performance makes this leave more necessary than in most of the Departments and Bureaus of the Government where authorized by existing laws; that there is no ground for discrimination of this character against this one Bureau.

Your committee therefore recommend the passage of said bill when amended as follows:

Amend by adding at the end of the first section the following:

Provided, That no such leave of absence shall be granted to any employé of said Bureau who shall not have been in continuous employment in said Bureau for a period of eleven months immediately preceding the granting of such leave.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 409.

HOLDERS OF DRAWBACK CERTIFICATES.

FEBRUARY 18, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HEMPHILL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 4533.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 4533) "For the relief of holders of drawback certificates issued under an act of Congress approved July 2, 1890," has considered the same, and recommends that it be amended as follows:

After the word "receivable" in line 7, add the words "*Provided*, That not to exceed one-half the amount of said certificates outstanding shall be so received during the fiscal year to end June 30, 1893, and the amount not then received shall be receivable for current taxes of and during subsequent fiscal years," and that as amended it do pass.

The letter of the Commissioners hereto appended, giving the reasons for this amendment, is made a part of this report.

OFFICE OF THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
WASHINGTON, *February 11, 1892.*

SIR: The Commissioners recommend favorable action upon H. R. 4533 "for the relief of holders of drawback certificates issued under an act of Congress approved June 2, 1890," if amended by adding after the word "receivable," in line seven, the words "*Provided*, That not to exceed one-half the amount of said certificates outstanding shall be so received during the fiscal year to end June 30, 1893, and the amount not then received shall be receivable for current taxes of and during subsequent fiscal years." The only manner in which these drawback certificates can now be redeemed is by their use in the payment of arrears of taxes.

This imposes upon the holders of such certificates the necessity to seek persons whose property is in arrears for taxes, and induce them to use those certificates instead of cash in the settlement of their tax accounts. The certificate owners are thus at the mercy of delinquent taxpayers, who oblige them to sell their certificates at a considerable discount. Furthermore, it would probably be many years before the owners could find purchasers for them among such delinquents, and as the certificates bear no interest they would lose largely in that way. This is a great injustice because the mass of these certificates represent cash that was advanced upon special assessment liens, which the courts subseqently declared invalid, to aid former municipal governments of the District to carry on their public improvements. The amount outstanding is officially reported to the Commissioners to be $116,152.17. The Commissioners believe that the revenues of the District for the next and succeeding fiscal years will be sufficient to justify this measure.

Very respectfully,

J. W. DOUGLASS,
President of the Board of Commissioners of the District of Columbia.

Hon. J. J. HEMPHILL,
Chairman House Committee on the District of Columbia.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 410.

REGISTRATION OF TRADE-MARKS.

FEBRUARY 18, 1892.—Laid on the table and ordered to be printed.

Mr. HEARD, from the Committee on Patents, submitted the following

ADVERSE REPORT:

[To accompany H. R. 5760.]

The Committee on Patents have had under consideration H. R. 5760, to amend an act entitled "An act to authorize the registration of trade-marks and to protect the same," approved March 3, 1881, and beg leave to report that in their opinion the bill should not pass. The amendment of the present law, which this bill is designed to effect, is simply to require the Government to refund to any applicant for a trade-mark, whose application is rejected the fees now required by law to be paid when such application is made. Your committee believe that the expense to the Government of making the examination necessary to decide whether or not the application should be granted is just as great in the case of rejection as when the application is granted; and that since such expense is absolutely unavoidable it should be provided for in every case by the applicant, as it now is.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 411.

PROPOSED IMMIGRATION INVESTIGATION.

FEBRUARY 18, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. STUMP, from the Committee on Immigration and Naturalization, submitted the following

REPORT:

[To accompany S. Res.]

The Committee on Immigration and Naturalization having had under consideration the accompanying resolution, report favorably thereon, and recommend immediate consideration thereof, and that the same do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 412.

THOMAS C. ISGRIG.

FEBRUARY 18, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 870.]

The Committee on War Claims, to whom was referred the bill (H. R. 870) for the relief of Thomas C. Isgrig, respectfully report:

This is a claim for one horse alleged to have been taken from claimant in Harrison County, Ky., on or about the 20th day of August, 1864, by W. W. Watkins, captain of Company K, Forty-seventh Regiment Kentucky Infantry, acting under orders from Gen. S. G. Burbridge, and for which a receipt was given to the claimant.

Claimant filed his claim in the office of the Quartermaster-General under the act of July 4, 1864. It was investigated by an agent of that Department, who reported that the claimant was a loyal citizen and that the horse was taken as charged. The Quartermaster-General recommended that the claim be disallowed for the reason that "its justness not proven."

The taking and use of the horse is clearly proven, and also the loyalty of the claimant, and your committee therefore report back the bill and recommend its passage with the following amendment:

In line 5 strike out "three hundred," and insert in lieu thereof "one hundred and fifty," and in line 7 strike out the word "captured" and insert the word "taken."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 413.

DESTRUCTION OF PROPERTY AT CYNTHIANA, KY.

FEBRUARY 18, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3697.]

The Committee on War Claims, to whom was referred the bill (H. R. 3697) to direct the Secretary of War to appoint a commission to ascertain and report the facts concerning the taking of property at Cynthiana, Ky., submit the following report:

This measure was considered by this committee in the Fiftieth Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee report back the bill, and recommend its passage.

[House Report No. 1420, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 8640) to direct the Secretary of War to appoint a commission to ascertain and report the facts concerning the destruction of property at Cynthiana, Ky., June 11, 1864, report as follows:

Your committee see no objection to the bill, and report it back and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 414.

DABNEY, SIMMONS & CO.

FEBRUARY 18, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COX, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 669.]

The Committee on Claims, having under consideration H. R. 669, find the following facts and law:

In 188— Dabney, Simmons & Co. were importers of drugs, etc. Under the statutes a certain drug (opium) which the firm imported was subject to examination, and this drug, under the law, must contain 9 per cent of morphia. These examiners are officers of the Government, and are authorized to make the inspection. The law further provides that if the importer is dissatisfied he can have another examination, but in order to do this he is required to deposit a sufficiency of money to pay the expenses of retesting. This the claimant did, and on a retesting the first finding was, to a great extent, reversed, most of the opium being found to contain the required per cent of morphia. The amount required to be deposited was $11 per case to pay the expenses.

This sum went into the Treasury, and claimant insists that the Secretary of the Treasury be ordered and directed to settle with claimant, allowing him $11 per case that passed on retesting, and pay this sum to claimant.

Your committee believing this but justice, recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 415.

LUCY HASKELL.

FEBRUARY 19, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CURTIS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5602.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5602) granting a pension to Lucy Haskell, submit the following report:

It is shown by competent evidence that Lucy Haskell is 72 years of age, and she alleges that she was the mother, by adoption, of John Haskell, who enlisted August 13, 1862, in Company G, One hundred and sixth New York Infantry, and died in service, June 26, 1863, of typhoid fever.

It appears in evidence that the soldier was born about June 2, 1843; that his mother was Eliza Watson, and that he had no acknowledged father. About January, 1845, the mother gave him, a baby, to Lucy Haskell and her husband, and the mother, by verbal agreement, relinquished all right and claim to him whatever. He was brought up to consider the claimant and her husband as his parents, and he knew no other, and was recognized in the community as their son, and they gave him the same care and affection as to their own children, of whom there were three.

The claimant and her husband are aged and without sufficient means of support and are dependent on their own labor. The whereabouts of the real mother, if living, are unknown, and the claimant has had no knowledge of her for forty years. It is also shown that the soldier was never married.

Your committee return the bill with the recommendation that it do pass, after being amended by adding after line 8 the words "at the rate of twelve dollars per month."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 416.

DAVID L. TRUEK.

FEBRUARY 19, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MARTIN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2902.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2902) for the relief of David L. Truex, have had the same under consideration and now submit the following report:

On the 19th day of August, 1890, a bill for the relief of the claimant was passed by Congress providing for the payment to him "through his legally constituted guardian at the rate of eighteen dollars per month." The committee making the report said:

> The proposed beneficiary is the imbecile son of John Truex, deceased, late private in Company D, Eighty-second Regiment Indiana Volunteers. The father's death was the result of his service, and occurred while in the service at Murfreesboro, Tenn., of fever. The son was pensioned under the general law until he arrived at the age of 16 years. He is a helpless cripple and a weak-minded person, the result of a spell of fever; is wholly incapacitated for mental or physical labor, and is a charge upon his brothers and sisters who are all poor people. His mother is dead and no other person is drawing a pension on account of this sold.er's death.

The laws of Indiana in such cases made and provided are such that before a guardian can be appointed, a jury must determine upon examination of competent witnesses that the person named is of unsound mind to such an extent as to require the appointment of a guardian. In the case of this beneficiary, whose legal residence is in the State of Indiana, a jury investigated his sanity and decided that he was not insane or sufficiently imbecile to warrant the appointment of a guardian. The Commissioner of Pensions being informed of this action declined to pay the amount of said pension to the claimant herein or to any other person except his legally constituted guardian, and adds:

> This Bureau is powerless to act further in the matter, and until a guardian has been duly appointed to represent this claimant or legislative action removes this barrier, the claim must remain in *statu quo*.

The claimant being permanently disabled and in pressing need of the relief granted him by the act of Congress referred to, the committee submit a favorable report and recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 417.

MILDRED P. POULLAIN.

FEBRUARY 19, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 6227.]

The Committee on War Claims, to whom was referred the bill (H. R. 4145) for the relief of Mildred P. Poullain, widow of Dr. Thomas N. Poullain, deceased, report as follows:

The petitioner is a resident of Greensboro, Ga., and claims for the proceeds of 159 bales of cotton, amounting to about $40,000, which it is alleged was seized by the United States forces on the 17th of May, 1865, and sent to New York and there sold by the agents of the Government.

Your committee is of opinion that the claim should be investigated by the Court of Claims, and report herewith a bill conferring jurisdiction upon that court, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 418.

JAMES SIMS.

FEBRUARY 19, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R 3677.]

The Committee on War Claims, to whom was referred the bill (H. R. 3677) for the relief of James Sims, submit the following report:

This measure was considered by this committee in the Fiftieth Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 3128, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 9297) for the relief of James Sims, submit the following report:

The committee finds from the sworn statement of James Sims, Alfred Featherstone, and Manuel Sims that the claimant furnished quartermaster and commissary stores to the Army of the United States from December, 1862, to August, 1863, valued at $5,582. Receipts are also filed with the committee for a portion of the supplies enumerated in the sworn statement of claimant, which were given at the time by officers of the Army who took them. Also the following order from Gen. Grant in his own handwriting:

HEADQUARTERS DEPARTMENT OF THE TENNESSEE,
Holly Springs, Miss., January 4, 1863.

Mr. James Sims, living 8 miles southwest of Holly Springs, is authorized to retain four mules and the remainder of stock, grain, and provisions on hand.

All United States troops are prohibited from further molesting or taking from Mr. Sims, he having already contributed largely to the support of the Federal Army.

U. S. GRANT,
Major-General.

This order shows that a large amount of supplies not covered by the receipts of officers were furnished by James Sims. Conclusive evidence is also filed showing claimant's loyalty.

The committee is of the opinion that this claim should be paid, and recommend the passage of the bill.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 419.

C. J. McCONNELL.

FEBRUARY 19, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 6065.]

The Committee on War Claims, to whom was referred the bill (H. R. 6065) for the relief of C. J. McConnell, submit the following report:

The claim is for two horses taken from the claimant by the Army of the United States during the late war. Claim stated at $275.

The proof filed in support of the claim shows that Capt. Hardee, of the Fifty-second Regiment Kentucky Volunteers, mounted infantry, in 1864, took from the claimant two horses for the use of the Army. He gave no receipts or vouchers for the horses. The loyalty of the claimant is fully established and also the taking of the property.

Your committee, therefore, report back the bill and recommend its passage with an amendment, as follows: In line 6 strike out "one thousand" and insert in lieu thereof "two hundred and seventy-five."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 422.

TRANSFERS AND ASSIGNMENTS OF CLAIMS AGAINST THE UNITED STATES.

FEBRUARY 23, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. WOLVERTON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 484.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 484) to amend section 3477 of the Revised Statutes of the United States, submit the following report:

Section 3477 of the Revised Statutes provides that all transfers and assignments of any claim against the United States shall be null and void unless signed in the presence of at least two attesting witnesses, and further requires that such transfers shall be acknowledged. It has been claimed that certificates issued by marshals for fees of witnesses and jurors come within the provisions of this section. The Attorney-General of the United States recommends the passage of this bill, and says: "I think it would facilitate the administration of business."

The committee would suggest that the words "heretofore or hereafter" in the eighth line be stricken out, and after this amendment, recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 423.

RATIFYING AN ACT OF THE LEGISLATURE OF ARIZONA.

FEBRUARY 23, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. SMITH, from the Committee on the Territories, submitted the following

REPORT:

[To accompany H. R. 3980.]

The Committee on the Territories, to whom was referred the bill (H. R. 3980) ratifying the act of the sixteenth legislative assembly of the Territory of Arizona, making an appropriation of $30,000 in aid of Arizona's exhibit at the World's Columbian Exposition, to be held in the city of Chicago in the year 1893, have had the same under consideration and beg leave to report said bill to the House and recommend its passage.

The committee finds that the legislative assembly of the Territory of Arizona at its last session passed an act providing for the issuance of bonds against the Territory in the sum of $30,000, payable in twenty years and bearing 5 per cent interest from date of sale, said bonds to become valid on condition that Congress ratify the same. The object of the condition thus attached was to avoid the provisions of what is known as the Harrison act, limiting the indebtedness of Territories to 4 per cent of the taxable property as shown by the last assessment list of the Territory.

The committee finds that the $30,000 provided for will swell the Territorial indebtedness above the said debt limit, but while such increased debt will prove somewhat in excess of 4 per cent of the assessed value it will fall far below 4 per cent of the taxable value of the property of the Territory. It has been shown that the taxable property in Arizona exceeds in value $75,000,000, while the tax list shows less than $30,000,000.

Your committee recommend the passage of the bill.

It is an appropriation by the representatives of the people of Arizona, from the treasury of the people of Arizona, and no reason can well be shown why the people there should not have the control of their own finances.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 424.

FEES OF JURORS AND WITNESSES IN UNITED STATES COURTS IN CERTAIN STATES AND TERRITORIES.

FEBRUARY 23, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BRODERICK, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 6262.]

The Committee on the Judiciary having had under consideration House bill 5136 find that the fees allowed in the Western States and Territories to jurors and witnesses in the United States courts are not uniform, Congress having made special provision in some instances; that jurors and witnesses have to travel long distances, and frequently by stage or private conveyance, and that the actual cost of traveling in this way is about 10 cents per mile; that the cost of traveling by rail is from 4 to 5 cents per mile.

The committee is of opinion that the cost of traveling is about the same in all this region and that the fees should be uniform, and therefore report the bill back with a substitute for same and recommend that the substitute be passed.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 425.

MARYLAND AND WASHINGTON RAILWAY COMPANY.

FEBRUARY 25, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. HEARD, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 4667.]

The Committee on the District of Columbia have had under consideration the bill (H. R. 4667) to incorporate the Maryland and Washington Railway Company, and beg to submit the following report thereon:

The line of road proposed by the bill lies entirely outside of the city limits, and is designed to give connections with the city to certain lines lying outside the District of Columbia and chartered under the laws of the State of Maryland. The bill was submitted by your committee to the Commissioners of the District of Columbia, and they approve the same when amended as they suggest, and which amendments your committee recommend for adoption. The first amendment proposed by the Commissioners strikes out that portion of the line beginning at Rhode Island avenue extended, and Fourteenth street northeast, extended, and terminating at the point of intersection of the "Queen's Chapel Road" with the boundary line of the District. The reason assigned for this recommendation of the Commissioners is that "it is not advisable in their opinion in advance of the establishment of a definite plan of street extensions and improvements, to grant privileges which may embarrass the execution of those important public measures."

The second amendment suggested by them is designed to secure in the construction of this road the same width of space between their track as is recommended for application to all roads to be hereafter constructed in the District.

Their amendment No. 3 is designed to make all paving and repairs on paving by the railroad company between and adjacent to their tracks, as required by the bill, subject to the approval of the District Commissioners.

Their last amendment is to strike out the word "main" in line 1 of section 11 to make the bill consistent, since the first amendment suggested by them strikes out the branch line proposed and leaves but one line. The first amendment offered by your committee, as additional to those suggested by the Commissioners, proposes to strike out the word "deemed" in line 7 of section 2 so that the question of what may be necessary in the crossing of streets, avenues, and highways may not be left wholly to the railroad company.

The second is designed to require the corporation to state in each annual report made to Congress the amount of money paid in on each share of stock.

The third is designed to require that the whole subject of construc-

tion, as to the quality of materials, etc., to be used, shall be under the control of the Commissioners of the District, or subject to their approval. As the section now reads this control would only extend to the quality of *rails* used.

The fourth is designed to require that 10 per cent of the stock shall be paid in when subscribed instead of 5 per cent, as provided in the bill.

The fifth is designed to require that 50 per cent of the entire stock subscribed shall be paid up within six months from the date of subscription, and the whole amount paid within two years.

The sixth is designed to prohibit the sale or transfer of the franchise by the company before said road shall be completely built and equipped.

The seventh is to make definite the rights of the company in the use of its roadway and properly limit said rights.

The eighth is designed to secure to the public the proper use as a public highway, etc., of any extension of Rhode Island avenue made under the provisions of this bill, and to place the control of such extended avenue under the same control by the authorities of the District of Columbia as they may now exercise over any other street or avenue in the District now occupied by a street railway.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 426.

EULOGIES DELIVERED IN CONGRESS UPON HON. W. H. F. LEE.

FEBRUARY 24, 1892.—Ordered to be printed.

Mr. MCKAIG, from the Committee on Printing, submitted the following

REPORT:

[To accompany concurrent resolution.]

The Committee on Printing, having had under consideration the concurrent resolution providing for the printing of eulogies delivered in Congress upon Hon. W. H. F. Lee, beg leave to report the same back with the recommendation that it be adopted.

The committee further report that the cost of printing the eulogies provided for in the resolution will amount to $3,700.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 427.

EIGHT-HOUR LAW, ETC.

FEBRUARY 24, 1892.—Ordered to be printed.

Mr. TARSNEY, from the Committee on Labor, submitted the following

REPORT:

[To accompany Mis. Doc. 103.]

The Committee on Labor, to whom were referred sundry bills having the scope and purpose of constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States, or by or on behalf of the District of Columbia, or by contractors doing work for the Government of the United States or the District of Columbia, and amending and providing penalties for the violation of an act of Congress approved June 25, 1868, which act of Congress is known as "the eight-hour law;" also sundry bills the tenor and effect of which would be to prevent the use or employment by or on behalf of the Government of the United States, or of any contractor or subcontractor of any convict labor in the erection, construction, or repair of any public buildings of the United States or of any of the public works of the United States, and to prevent the product of convict labor from being furnished to or for the use of any department of the Government, and to prevent the product of convict labor from being used upon public buildings or other public works of the United States, submit the following preliminary report:

By an act approved June 25, 1868, known as "the eight-hour law," the Congress provided that eight hours should constitute a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States, said act reading as follows:

Be it enacted, etc., That eight hours shall constitute a day's work for all laborers, workmen, and mechanics now employed or who may hereafter be employed by or on behalf of the Government of the United States.

Your committee is of the opinion that while this statute in its letter was a mere naked declaration of a principle its spirit and intent was to fix a rule for the limitation of the daily hours of service of the labor engaged in the service of the Government, and its failure to accomplish this purpose, if such failure there has been, may be attributed to the absence from the act of the necessary provisions to secure the enforcement and observance of the declared principle and not to any ambiguity as to the intent of Congress.

Your committee are unanimous in the opinion that this law should be strictly observed in accordance with its spirit and the intent of the Congress that enacted it, and if the same is evaded and disregarded because of the lack of proper provisions of law to secure its enforcement, such provisions should be at once supplied, unless such observance and enforcement is impracticable and would produce evils which would outweigh in their results the benefits intended to be secured by its enactment, in which case it should be repealed.

[illegible] Whether the product of convict labor is being furnished to or for the [illegible] of the Government, and whether the product of convict labor is [illegible] upon public buildings or other public works of the United States.

[illegible] That for the purpose of enabling the committee to carry out the [illegible] foregoing resolution, and to make an investigation and inquiry thereof, the said committee is hereby authorized to send for persons and papers, to compel the attendance of witnesses and the production of books and papers [illegible], and to administer oaths.

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MARY JEWETT [illegible].

FEBRUARY 24, 1892.—Committed to the Committee of the Whole House on the [illegible] and ordered to be printed.

Mr. JOLLEY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[illegible]

The Committee on Invalid Pensions, to whom was referred the bill [illegible] (H. R. 5021) granting a pension to Mary Jewett Telford, submit the following report:

By affidavits and original commission and [illegible] it appears that Mary Jewett Telford performed services as nurse in the [illegible] Nashville, Tenn., and after serving as nurse in the [illegible] November 28, 1863, commissioned as nurse by [illegible] president Western Sanitary Commission at St. Louis, [illegible] as nurse was rendered under the [illegible]

She was discharged from her service as nurse at the [illegible] returned to her home in Lima, Washtenaw County, Mich., [illegible] the time she served as nurse she was [illegible] Nashville, Tenn., and in said hospital there were [illegible] filled, and that she visited each of the [illegible]

In said hospital there were [illegible] without servants. Her severe work in said hospital resulted in typhoid malarial nervous fever, which compelled her to withdraw from the service [illegible] and from which she has suffered since she left the service in [illegible] and from which she is suffering now. Her mental services as nurse are fully established by affidavits and effects. She suffered from these physical disabilities and diseases from the time she left the service until the present time.

That these diseases caused her to leave the service [illegible] by affidavits. She was a healthy woman when she commenced her services as nurse, and she has not been healthy since [illegible] totally incapacitated for mental toil and is able to perform no [illegible] physical labor.

She was married to Jacob Telford June [illegible] County, Mich., and her husband is living at [illegible] ceiving a pension of $6 per month for a [illegible] groin at Stone River, Tennessee, on December [illegible] member of Company B, Fifteenth Indiana [illegible]

The family of Mary Jewett Telford consists of herself and [illegible] orphan girls adopted by her. Her husband was [illegible] discharged from the military service [illegible]

Fifth. Whether the product of convict labor is being furnished to or for the use of any department of the Government, and whether the product of convict labor is being used upon public buildings or other public works of the United States.

Resolved, That for the purpose of enabling the committee to carry out the purpose of the foregoing resolution, and to make an investigation and inquiry thereby authorized, the said committee is hereby authorized to send for persons and papers, and to compel the attendance of witnesses and the production of books and papers at its hearings, and to administer oaths.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 428.

MARY JEWETT TELFORD.

FEBRUARY 24, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JOLLEY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5021.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5021) granting a pension to Mary Jewett Telford, submit the following report:

By affidavits and original commission and discharge it appears that Mary Jewett Telford performed services as nurse in hospital No. 8, Nashville, Tenn., and after serving as nurse for some time she was, on November 28, 1863, commissioned as nurse by James E. Yeatman, president Western Sanitary Commission at St. Louis, Mo. Her services as nurse was rendered under the name of Mary Jewett.

She was discharged from her service as nurse on June 6, 1864, and returned to her home in Lima, Washtenaw County, Mich. Nearly all the time she served as nurse she was the only woman in hospital No. 8, Nashville, Tenn., and in said hospital there were 600 beds, kept well filled, and that she visited each of the seven wards every day.

In said hospital there were long flights of stairs without elevators. Her severe work in said hospital brought on spinal difficulty and nervous fever, which compelled her to withdraw from the service as nurse, and from which she has suffered since she left the service in June, 1864, and from which she is suffering now. Her grand services as nurse is fully established by affidavits and letters. She suffered from these physical disabilities and diseases from the time she left the service until the present time.

That these diseases caused her to leave the service is fully established by affidavits. She was a healthy woman when she commenced her services as nurse, and she has not been healthy since that time. She is totally incapacitated for mental toil and is able to perform but little physical labor.

She was married to Jacob Telford July 3, 1864, at Lima, Washtenaw County, Mich., and her husband is living at the present time, and is receiving a pension of $8 per month for a gunshot wound through the groin at Stone River, Tennessee, on December 30, 1862, while he was a member of Company B, Fifteenth Indiana Infantry.

The family of Mary Jewett Telford consists of her husband and three orphan girls adopted by her. Her husband has been ever since he was discharged from the military service of the United States subject to

prolonged attacks of inflammatory rheumatism in its worst type, and has been in consequence unable to support his family for many years, and Mary Jewett Telford and her husband have no home, land, stock, capital, or financial dependence of any sort except Mr. Telford's pension.

Your committee recommend that the bill be amended by striking out the word "fifty" in line 6 of the bill and by inserting in lieu thereof the word "twelve," and, as thus amended, your committee recommend that the bill do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 429.

MICHAEL DITTLINGER.

FEBRUARY 24, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 676.]

The Committee on War Claims, to whom was referred the bill (H. R. 676) for the relief of Michael Dittlinger, submit the following report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill, with the following amendment:

In line 6 strike out "thirteen thousand eight hundred and twenty-seven," and insert in lieu thereof "six thousand seven hundred."

[House Report No. 3757, Fifty-first Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 6613) for the relief of Michael Dittlinger, submit the following report:

This bill is for payment of the claim of Michael Dittlinger for property seized and used by the Government during the war and for the use of his home by the Army and its final destruction while being so used. The claimant was an officer in the artillery service of the Union Army. While so engaged his beautiful home at Cape Girardeau, Mo., was taken possession of by the Union forces and used as headquarters for officers. A fort was erected covering the grounds and buildings, and in an engagement occurring there the dwelling was destroyed. In addition to this, 685 barrels of lime and 22 kegs of powder used for blasting limestone, all belonging to Dittlinger, were seized and used by the Union forces.

The claim of the bill is for $13,827, but owing to the absence of proof to sustain certain features of the claim, your committee recommend that the bill be amended so as to allow $6,700 in full payment of the claim, and that the bill so amended be passed.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 430.

J. W. PARISH.

FEBRUARY 24, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3318.]

The Committee on War Claims, to whom was referred the bill (H. R. 3318) for the relief of Joseph W. Parish, have examined the same, and make the following report:

After mature consideration the committee was unanimously of the opinion that the claim was equitable and should be paid.

The claim has its basis in a contract made by the claimant with the United States to furnish ice to the hospitals along the Mississippi River during the late war. The claimant was forced to prosecute his claim in the various Departments of the Government, in the Court of Claims, and finally in the Supreme Court, before Congress would make the appropriation for its payment. The record shows constant and persistent diligence on his part during a period of twenty-three years before the principal due him was paid; and in the face of the fact that the Surgeon-General in 1882 (see page 11 of this report) reported that in 1864 there was due the claimant the sum of $69,261.11. Of this amount $10,919.26 were paid March 9, 1881, and the balance of $58,341.85, in pursuance of act of Congress approved February 20, 1886. The present claim is for interest. The question whether Congress should at any time or under any circumstances pay interest to a private claimant is so fully and profoundly discussed by Senator Jackson in the Newton Bank claim, then pending in the Senate, that it is here adopted and printed as an appendix. The precedents given by Senator (now Judge) Jackson show that Congress from the beginning of our Government has not hesitated, in a proper case, to pay interest to a private claimant.

The injustice and hardship which the claimant has suffered by reason of the delay on the part of the Government to pay the claim is apparent in the history of the case as set out in the reports of the Committees on Claims in the Fiftieth and Fifty-first Congresses. In the precedents established by acts of Congress similar to this case (Appendix 2, pp. 14–22), over fifty acts are cited, authorizing the Secretary of the Treasury to pay interest thereon at rates from 6 to 10 per cent per annum. Decisions by the Supreme Court of the United States (pp. 5, 13, and 14) judicially sustain the precedents.

The case is so fully stated in the former report, and the reasons why the relief provided by the bill should be granted, that your committee adopt said report.

House Report No. 1179, Fiftieth Congress, first session.

MARCH 16, 1888.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHAW, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 8562.]

The Committee on Claims, to whom was referred the petition of Joseph W. Parish for relief, have examined the same, and mak ethe following report:

On the 5th of March, 1863, Mr. Parish, in company with one William L. Huse, under the firm-name of J. W. Parish & Co., contracted with Henry Johnson, a medical store-keeper, acting on behalf of the United States, and under the direction of the then Surgeon-General, William Hammond, to "deliver at Memphis, Tenn., Nashville, Tenn., St. Louis, Mo., and Cairo, Ill., the whole amount of ice required to be consumed at each respective point and vicinity during the remainder of the year 1863."

The price to be paid for the ice, as the same should be delivered at these various points, was stipulated in the contract, and the quantity left to be determined by the wants of the Government.

Very soon after this contract was made Huse withdrew from the firm, and the entire interest on the part of the contractors became vested in said Parish.

On the 25th of March following the date of the contract, Col. R. C. Wood, the Assistant Surgeon-General stationed at Saint Louis, directed Parish, in writing, to furnish 5,000 tons of ice each at Saint Louis and Cairo, and 10,000 tons each at Memphis and Nashville; 30,000 tons in all. Twenty thousand tons of this were to be furnished without delay. The contractor at once commenced the purchase of ice, and within a week had succeeded in securing sufficient to fill the order. Large portions of this were purchased at Ogdensburgh and Kingston, on the St. Lawrence River, and at Lake Pepin, in Minnesota.

After such purchases were all made and the contractor stood ready to fulfill his contract, he was notified by the said Assistant Surgeon-General Wood that the Surgeon-General of the Army had directed that the order above referred to should be suspended "until further instructions." That suspension was never removed. From that time to the close of the year 1863 (the date of the termination of the contract) the contractor was called upon by the proper medical officers to deliver only about 12,670 tons of ice, although it appears he was during all the time ready and desirous to deliver the full amount of 30,000 tons as Surgeon Wood had directed. The contract terminated, and the balance of the ice melted away and was a total loss.

The claimant at first applied to the executive department of the Government for relief. After the delays incident to the prosecution of a claim before the Departments, and utterly failing in his efforts in that direction, he applied to Congress.

On May 30, 1872, an act was approved which authorized the Court of Claims to hear and determine his claim. A large amount of testimony was taken at great expense, and the case finally brought to a hearing. The court entered a decree dismissing the petition, on the ground that Assistant Surgeon-General Wood had no authority to determine the quantity of ice that would be required, and that his action therein was wholly nugatory.

From this decree an appeal was taken to the Supreme Court. The decision below was reversed, the Supreme Court holding that the acts of the Assistant Surgeon-General were the acts of the Surgeon-General, having the same validity until countermanded or revoked.

In the Court of Claims, however, Parish had claimed as his measure of damages the contract price of the ice less the expense of delivering the same, and all his testimony had been taken on that theory. But the Supreme Court laid down another doctrine as to the measure of damages. It held that the claimant "was entitled to recover what he paid for the ice that was lost and what expense he was at in making the purchase and in keeping it until it was lost."

Thereupon the case was returned to the Court of Claims to ascertain the damages under this new rule, and to render judgment accordingly. But the testimony having been taken under another theory, there were only fragmentary and incidental proofs as to the cost of the ice or the expense of purchasing and keeping the same. Therefore, a motion was made on the part of the claimant for leave to take further testimony. This the court denied, and gave judgment in the gross sum of $10,444.91. This judgment a former committee of this House has characterized as follows:

> The action of the Court of Claims on this mandate, to the mind of your committee, was somewhat strange and inexplicable. The report of the Surgeon-General, which is made a part of this report, shows that upon application the court declined to allow any additional testimony to be taken, believing, perhaps, that it could not be regularly done under a mandate; it declined, upon request, to find the facts required by the rules, whereby the right of appeal was cut off under the rules. In allowing a mere fractional part of the claim, it declined, or rather omitted, to state any reasons whatever, either in writing or orally, as the grounds of its decision, leaving the parties wholly in the dark as to the data upon which it gave judgment. The effect of all this was to deny to the claimant a day in court, in the true and proper sense of that term, on the question or right of recovery as laid down by the Supreme Court. (House Report No. 1956, Forty-seventh Congress, second session.)

The only entry of this judgment in any printed report is found in 16 C. Cls. 612, in the following words, after giving title of the case:

> Mandate of Supreme Court. Contract to furnish ice. Amount awarded, $10,444.91.

The claimant avers that he was advised by his counsel that a further appeal to the Supreme Court would be useless, as the technical assumption would be that the Court of Claims had obeyed the mandate of the Supreme Court, and the amount allowed was found in pursuance of the rule of damages established on the former appeal.

The claimant again promptly appealed to Congress for redress. At the succeeding term he secured the introduction of bills in both houses. The Committee on Claims in the Forty-seventh Congress sent the matter to the Secretary of War for a report. The Secretary referred it to Surgeon-General Barnes, who, on the 25th of May, 1882, made a very

full report of the whole case to the Secretary, who reported the same to Congress. A copy will be found appended hereto.

General Barnes, after examining the case in the light of the testimony which was before the Court of Claims, and some additional testimony submitted by the committee, and after applying the rule laid down by the Supreme Court, finds that there was due the contractor on the termination of his contract $69,261.11. Then, after deducting from this amount the amount of the award by the Court of Claims, and two small items for ice and lumber sold, he finds that there was still due at the date of his report $58,341.85.

Upon the receipt of this report from the Surgeon-General, the committees of the Senate and House of the Forty-seventh Congress having the bills in charge reported them to their respective houses, recommending that the claim for above amount be allowed and paid. These bills were not reached on the calendars for action. At each succeeding Congress favorable reports were made to both houses. In March last an act was approved providing that the balance of the principal sum due Mr. Parish on his contract, amounting to $58,341.85, be paid.

The petitioner now claims interest. From the foregoing history of the matter it will be seen that he has been vigilant and persistent in his efforts to collect the amount due him. The claim has been constantly prosecuted before some Department of the Government. Congress and the Supreme Court have fully acknowledged its justice, and the principal sum, after a delay of more than twenty years, has finally been paid.

And right here it should be added that the rule applied by the Supreme Court was a hard, technical one, which reduced the claim to the lowest minimum amount. Equitably the claimant should have recovered the contract price of the ice ordered to be furnished, less the cost of delivering the same. This would have given him more than three times the amount which he finally received.

Your committee find (1) That the original claim is based upon a written contract legally made with the Government by the petitioner. This point is *res adjudicata;* (2) That the petitioner is not chargeable with *laches* in the prosecution of his claim; (3) That the delay in making payment of the principal is solely chargeable to the refusal or neglect of the various departments of the Government.

The question then arises upon these propositions whether the Government should pay interest on the sum which was due on the 1st day of January, 1864, and which it did not finally pay until March, 1886. Your committee are of the opinion that it should.

If the contention was between two individuals there could be no possible question. Where there is a principal debt, either liquidated or depending for liquidation upon some act of the debtor, which is withheld from the creditor without fault on his part, the debtor should pay interest from the inception of the debt until the same is paid; or, in the language of Mr. Parsons (Par. Contr. 2, 380), "where it is that money ought now to be paid, and ought to have been paid long since, the law, in general, implies conclusively that for the delay in the payment of the money, the debtor promised to pay legal interest." (Silleck *v.* French, 1 Conn., 32; 3 Cow., 393, and other authorities given by the author.)

In fact as between man and man, this is hornbook law. No need to cite authorities. Every lawyer admits it as a sound legal principle, and every layman recognizes it as just and right.

The rule is equally applicable in every respect when the Government is the debtor. That the Government never pays interest is a saying more or less common among the people. It is wrong in principle and untrue

in fact. It probably had its origin in the fact that the officers of the Executive Department, being strictly limited in their function by statutory law, can not pay interest to claimants unless the same is specially directed by Congress. The Government goes into the market to borrow money with an interest-bearing bond in its hand. It exacts interest of its citizens when they are debtors. It pays interest on claims of foreign nations. It insists upon interest from foreign nations. It pays interest to the Indian tribes.

The debtor is as much entitled to pay for the use of his principal as to the principal itself. For the Government to take the citizen's money without interest would be a violation of the spirit, if not the letter, of the Constitution where it provides "nor shall private property be taken for public use without just compensation."

In Erskine *v.* Van Arsdale (15 Wall., 75), which was a case against the Government, Erskine being a collector of internal revenue, Chief-Justice Chase, in delivering the unanimous opinion of the court, says:

> The court (below) also charged the jury that if they found for the plaintiff they might add interest. This was not contested upon the argument, and we think it clearly correct. The ground for the refusal to allow interest is the presumption that the Government is always ready and willing to pay its ordinary debts. Where an illegal tax has been collected, the citizen who has paid it, and has been obliged to bring suit against the collector is, we think, entitled to interest in the event of recovery, from the time of the illegal exaction.

Here, the court says, the ground for the refusal to allow interest is the presumption that the Government is always ready and willing to pay its ordinary debts; a presumption which the court at once shows must give way when the Government forces the citizen to the delay and expense of a suit to recover the debt.

In Cochran *et al. v.* Schell, Collector of Customs (17 Otto, 625), which is a case where judgment was obtained in the United States circuit court against a collector of customs in his official capacity (virtually against the United States), and the Solicitor-General took it on writ of error to the Supreme Court. The latter tribunal, on affirming the decision of the lower court, ordered interest on the judgment until paid. In this case the judgment below was for damages *and interest;* and now comes the Supreme Court and orders interest on this judgment, which, in effect, is, as to a portion of the judgment, interest upon interest. The theory of the whole case is that the Government forced the creditor to bring suit to enforce his claim; hence when judgment went for claimant he was entitled to interest from the date of his claim to date of judgment; and again, when further delay in payment was made by appealing, the Supreme Court says the judgment creditor must have interest on his judgment. (See also Barber *v.* Schell, 17 Otto, 617, and Schell *v.* Dodge *et al.*, *Ib.*, 629.)

The Congressional precedents for paying interest on claims are very numerous. Attached to the petition on file with the claim is a report of Senator Jackson, from the Senate Committee on Claims, submitted to the first session of the Forty-eighth Congress (S. Report 326), in which is noted a long list of acts of Congress allowing interest to every class of claimants. That report will also be found in the appendix hereto.

We earnestly call attention, not only to the laws there cited, but also to the able argument it contains in favor of interest on a claim similar in its principles to the one we now present. The report was unanimously made by the Committee on Claims, and the bill passed the Senate providing for interest alone where the principal had previously been paid by Congress.

If Congress is authorized to do partial justice, it is authorized to do complete justice. It can not consistently hand over to Mr. Parish a portion of what is due him and retain the balance. For twenty-two years he besought payment of his claim. It is now admitted beyond dispute that during the whole of this time the Government was his debtor. He has been forced to the expenditure of large sums in prosecuting the matter in the courts and before Congress. There is absolutely nothing to be alleged against this claim for interest except the trite saying that the Government never pays interest. If the claimant were a tribe of Indians or a foreign nation, instead of one of our citizens, no question would be raised.

Suppose the Government had taken from one of its citizens interest-bearing securities, and for twenty-two years collected and appropriated the interest on them, could there be any question that when it came to make restitution it would, in very decency, be compelled to restore both interest and principal? But, upon principle, the case cited does not differ from the one which we now report. The Government has had the use of this claimant's money, and, by retaining it, deprived him of the benefits resulting from such use.

Your committee is therefore of the opinion that the prayer of the petitioner should be granted; and accordingly report the accompanying bill, directing the Secretary of the Treasury to ascertain the amount of interest found due on the several sums awarded the claimant by the Court of Claims and the Congress and pay the same to the petitioner.

APPENDIX No. 1.

SURGEON-GENERAL'S OFFICE, *May* 25, 1882.

SIR: I have the honor to return with the following report the papers referred by you on the 20th instant, in connection with a claim of Joseph W. Parish, growing out of his contract to furnish ice in 1863.

Soon after the commencement of hostilities, in 1861, ice was found to be indispensable in summer in the hospitals and hospital transports of the Army; but no systematic attempt was made to secure a regular supply until the spring of 1863. Three contracts were then made with A. T. Edgerton, J. H. Tiffany, and Joseph W. Parish & Co. The two former were to supply the Atlantic and Gulf coasts, and the latter the principal points in the Mississippi Valley. The contracts were made in the city of Washington by Henry Johnson, medical store-keeper, under the direction of the then Surgeon-General, William Hammond. Mr. Johnson's part was purely ministerial. They were executed at nearly the same time, and were similar in their terms, differing in little else than the names, quantities, and prices.

Owing to the perishable nature of ice, and the want of experience in its management, these first contracts were rather crude, if not conflicting in some of their provisions, and have given occasion to considerable discussion and litigation.

The contract made with William L. Huse and Joseph W. Parish, as J. W. Parish & Co., was dated March 5, 1863.

They engaged to "deliver at Memphis, Tenn., Nashville, Tenn., Saint Louis, Mo., and Cairo, Ill., the whole amount of ice required to be consumed at each respective point, and vicinity, during the remainder of the year 1863. Ice to be in quality A No. 1, and delivered at (2,000) two thousand pounds to the ton."

The stipulated prices were, at Saint Louis, $16 per ton, at Cairo and Memphis, $20, and at Nashville, $25. The usual price paid during the previous summer had been at the rate of $30 per ton at Saint Louis. The contract then proceeds to declare:

"Sixth. All the ice delivered under this contract to be subject to the inspection and approval of the medical officer in charge of the post where it is delivered, and such as does not conform to the specifications set forth in this contract shall be rejected.

"Seventh. That payment shall be made from time to time upon receipted and duplicate accounts, certified to by the medical officer in charge of the post where it is delivered.

* * * * * * *

"Ninth. * * * J. W. Parish & Co. will allow (3) three working days for discharging each cargo. * * * ; after that demurrage to be allowed * * * as per charter-party or B. of L. of the vessel."

These two last sections evidently contemplate a delivery of the ice by the ship-load or boat-load, as was the practice along the sea-board.

William L. Huse, upon learning the terms of the contract, refused to be bound by it, averring that his name had been used without his consent, and the entire interest became invested in J. W. Parish.

Mr. Parish exhibited his contract to Col. R. C. Wood, the Assistant Surgeon-General at Saint Louis, the chief medical officer in the West, and left a copy with him. Whether his oral representations misled that careful and experienced officer may be doubted; but on the 25th of March Colonel Wood gave him an order in writing, several copies of which occur among these papers, to furnish 5,000 tons, each, at Saint Louis and Cairo, and 10,000 tons at Memphis and Nashville, respectively; 30,000 in all. He was directed to deliver the ice at Memphis and Nashville without delay. When apprised of this order the Surgeon-General telegraphed to the Assistant Surgeon General March 30:

"Parish & Co. have not contracted for 30,000 tons of ice. Suspend the order you gave him."

On the following day, March 31, the Assistant Surgeon-General telegraphed to Mr. Parish, supposed to be then at Chicago:

"I am instructed by the Surgeon-General to suspend the order I have given you till further instructions are given from him.

"R. C. WOOD,
"*Assistant Surgeon-General.*"

It is admitted that this action did not cancel the order for 30,000 tons, but left the contractor in uncertainty in reference to it.

It has been denied that Colonel Wood's notice was ever received by Parish, but that point appears to have little or no practical importance. The Assistant Surgeon-General telegraphed to this office April 2:

"Mr. Parish is here. Will you state what quantities of ice you wish delivered at Saint Louis, Cairo, Memphis, and Nashville? Requisitions are coming in."

The Surgeon-General replied the same day:

"No precise amount can be fixed, as it is not known. Letter written you March 31."

It may, therefore, be safely inferred that Mr. Parish was apprised of the views of the Department by about noon of April 2.

Under this suspension or modification of the original order ice was not sent immediately to Memphis and Nashville, and an aggregate of much less than 30,000 tons was delivered and accepted during the year. The bills certified by the medical officers were—

	Tons.
Saint Louis	3,629½
Cairo	1,030⅛
Memphis	5,990⅝
Nashville	497
Total	11,137¾

It does not appear that any regular system was pursued by making written requisitions upon the contractor for specific quantities to be delivered at times stated. The ice appears for the most part to have been delivered as the contractor could ship it, or to have been regulated by some informal understanding. On one occasion, at least, only a small part of the quantity sent was accepted.

A difference of opinion soon arose between the contractor and the receiving officers as to the manner of determining the quantities to be paid for. The former claimed the bill of lading as evidence of the quantity, at least of that sent by water; and the latter in most instances would receipt only for the amount ascertained by weight or measurement at the time of delivery. The difference was the meltage *in transitu*. This claim for meltage remained in suspense until October 3, 1872, when it was admitted by the concurrent action of the Second Auditor, Second Comptroller, and Solicitor of the Treasury, on the ground that under the similar contracts with Tiffany and Edgerton the meltage had been allowed and paid for from the first. The quantity thus admitted as meltage was 1,633⅓ tons, making 12,670⅙ tons, or approximately 12,671 tons in all.

In the mean time, Mr. Parish represented that under the order to furnish 30,000 tons of ice he had bought a sufficient quantity to enable him to deliver that amount; that the greater part of it became a total loss through the failure or refusal of the Government to accept what had been ordered; and that he was entitled to recover therefor. His first action, so far as appears, was to petition Congress to authorize the United

States Court of Claims to hear and determine his claim. The desired authority was given by an act approved May 31, 1872 (17 Stat., p. 195).

Mr. Parish filed his petition for relief in the Court of Claims, October 15, 1872. Great pains seems to have been taken both by the claimant and the Government to collect all the evidence obtainable. The investigation continued over three years. The depositions were taken of some forty persons, in Washington, New York, Saint Louis, Chicago, and other places; but many of those conversant with the facts, including General Wood, were already dead, and the greater part of the books and memoranda in private hands had perished by the great fire in Chicago and similar disasters. The court, while admitting the fact of the purchase, gave judgment for the defendant, on the ground that Assistant Surgeon-General Wood had no authority to determine the quantity of ice that would be required—that his action "was wholly nugatory," "and imposed no liability on the Government." From this view two of judges dissented.

Mr. Parish next appealed to the Supreme Court of the United States. That tribunal rendered its decision reversing the judgment of the court below, and determining the two following points:

"1. The acts of the Assistant Surgeon-General, appointed under the act of Congress and located at Saint Louis, are the acts of the Surgeon-General, and have the same validity until countermanded or revoked.

"2. Where in the effort to fulfill an order for a large amount of ice for the use of the Government, which claimants were bound to furnish by their contract, they purchased ice which was lost by the *suspension* of the order of the Assistant Surgeon-General by his superior officer, they are entitled to recover the cost of the ice so lost and the expense of the care and attempt to preserve it."

Mr. Justice Miller, who delivered the opinion of the court, concluded by saying:

"Claimants are entitled to the expenses and losses incident to the preparation to meet the demand of the notice served on them. The cost of the ice purchased at Lake Pepin and lost, the expense bestowed upon its care, and the time and expense of making that purchase, and any sum actually lost in regard to the other 7,232 tons of ice purchased to enable them to meet that requirement, must form the measure of the plaintiff's recovery. Because these are not found by the Court of Claims, the judgment of the court is reversed and the case remanded, that their damages may be ascertained and judgment rendered accordingly."

It now remained for the Court of Claims to ascertain "the cost of the ice so lost, and the expense of the care and attempt to preserve it." They had already, in their finding of facts, stated the quantity lost at 17,232 tons; but it does not appear that any effort was made to learn the prices paid.

Among the papers before me is an affidavit of R. P. Lowe, attorney for the complainant, setting forth that he made a motion in the Court of Claims to take additional testimony to discover the prices paid, which motion was overruled by the court.

It is ascertained that a somewhat similar motion was made by the counsel for the United States, and in like manner refused. In the absence of this important factor the court, March 9, 1881, gave judgment for the plaintiff in the gross sum of $10,444.91.

The data which yielded this result are unknown; but it would be obtained by assuming the mean price to have been 60¼ cents, including expenses; while the lowest price shown to have been paid was $2.50, exclusive of expenses.

Mr. Parish next petitioned Congress for further relief. On the 17th of the present month the Committee on Claims of the House of Representatives refer this claim "to the honorable Secretary of War, with a request that he furnish the committee, after a careful examination thereof, his opinion relative to its merits and amount, together with any facts known to said officer, and any recommendation he may deem proper relating thereto."

This historical outline has seemed necessary to an understanding of any discussion of the merits of the claim. The law of the case is clearly settled by the decision of the Supreme Court; and it only remains to examine the evidence. The principal part of the papers referred to this office is a bundle of printed documents stitched together, and purporting to be records of proceedings in the Court of Claims, and of evidence collected under the authority of that court in this same case of J. W. Parish, or J. W. Parish & Co., against the United States. These, having been compared with the corresponding documents in the Court of Claims, are considered authentic, and will be referred to by their running or pencil paging.

How much ice, then, did Joseph W. Parish buy in good faith between March 5 and April 2, 1863, in order to fulfill his contract with the Government? (See page 3.)

(1) It appears that Mr. Parish, upon making his contract, went direct to Chicago; that he was there at least as early as March 11. (P. 114.) On the morning of the 12th he bought of Benjamin F. Beasley 6,000 tons, then piled on the shore of Lake Pepin, and paid $15,500. He also paid Beasley's expenses, but the amount is not stated, and

can not be counted. Mr. Parish then went to Saint Louis (pp. 78, 114, 120), conferred with the Assistant Surgeon-General, received the order for 30,000 tons on the 25th, and set out to return to Chicago the same evening. (Pp. 186, 192.)

(2) He there made arrangements with Joel H. Wicker to assist him in purchasing and forwarding ice, and on the 26th or 27th (p. 174) agreed with Alexander & Wheeler for 7,000 tons, to be brought from Ogdensburgh and Kingston, on the Saint Lawrence. The price is immaterial. (Pp. 32, 34.)

(3) Returning to Saint Louis, Parish bought, about the end of March, 800 tons from Henry Learned, acting as commission agent for several dealers. (Pp. 17, 32.)

(4) Some time before March 24 he bought of Isaac D. Harmon 3,000 tons lying at and near Peru, on the Illinois River.

(5) Joel H. Wicker, in March or the 1st of April, bought for Parish 10,000 tons, at Reed's Landing, on Lake Pepin, at an aggregate cost of $25,000. (Pp. 32, 33, 112.) He says in one place $26,000, and in another, $25,000 or $26,000.

(6) Joel H. Wicker "picked up around Chicago about 6,000 tons," prices various but uncertain.

To recapitulate, then, there was bought—

	Tons.
(1) From B. F. Beasley	6,000
(2) From Alexander & Wheeler	7,000
(3) From Henry Learned	800
(4) From Isaac D. Harmon	3,000
(5) By J. H. Wicker, at Lake Pepin	10,000
(6) By J. H. Wicker, around Chicago	6,000
Total	32,800
Admitted by the Government as above	12,671
Left on the contractor's hands	20,129

It is claimed, on the strength of statements on pages 12 and 222, that Mr. Parish bought in March, 1863, of William L. Huse, 1,162 tons, but this item is inadmissible. The bill of lading on page 222, dated March 24, does not prove a purchase from William L. Huse by J. W. Parish, and probably refers to a part of the 3,000 tons bought for Parish by Isaac D. Harmon in the neighborhood of Peru. (Pp. 226, 227.) The testimony of William L. Huse himself is explicit that the sale was of 1,148 tons from his ice-house at Saint Louis after the 6th of April. Being after Mr. Parish was aware of the suspension of the order, the Government is not liable for it; yet, as the ice was delivered and paid for at the time, it can not be wholly ignored. It will be considered here as taking the place of a part of the ice bought at Chicago, and will be deducted hereafter from the surplus left over there. In like manner, the 395 tons bought of William L. Huse in September will be entirely disregarded. (P. 226.)

The next point to be considered is whether the contractor is entitled to be paid for the unused remainder of 32,800, or of only 30,000. As he was finally paid for meltage on shipboard, as per bills of lading, if he had shipped and billed all the ice as soon as purchased, we should take into account only the 30,000, and exclude any excess over that amount from the latest purchase. But that was far from being the case, and it was his duty to secure enough to make good the loss until the last was shipped by water or delivered by land. Now, the time for delivering the 10,000 tons at Saint Louis and Cairo was left undetermined, and in all cases there were more or less delay and waste. The ice bought at Ogdensburgh had to be brought from the St. Lawrence by vessel, at the risk of the purchaser as to meltage, unloaded and stored at Chicago, and then forwarded from time to time.

Considerable of the ice was sent by rail, where the provision for meltage was inapplicable. Wicker paid at one time $4,675 for freight of 85 cars on the Illinois Central Railroad. (P. 215.) The ice sent to Nashville was not called for until the 29th of June. (P. 143.) It had then been kept in store nearly three months, was sent by rail to Alton, and finally shipped and invoiced at Smithland, Ky., July 13. (P. 138.) And during all this time the wastage was at the risk of the contractor. In May, Parish sent a train of cars loaded with ice to Cairo, Ill. Medical Store-keeper Stevens accepted, as he says, 250 tons of it, and refused 1,200 tons, because it came without previous notice and he had nowhere to put it. He says that it was of poor quality; but that did not prevent his accepting all he wanted. (Pp. 170, 171.) In view of these and similar facts it is believed that the margin of 2,800 tons was not more than enough to cover wastage until shipment.

What particular ice then was shipped and accepted by the Government and what was left on the contractor's hands? Fortunately, in the present state of the case, it was the lowest-priced article that was left unused. The 800 tons bought at Saint Louis was no doubt all delivered. So, too, was the 3,000 tons at Peru, and the 7,000 brought from the St. Lawrence. (Pp. 30, 177, 208.) The remainder of the 12,671 tons delivered, that is, 1,871 tons, was taken from the 6,000 "picked up around Chi-

cago," leaving 4,129 tons at Chicago and 16,000 tons at Lake Pepin. We have seen that the Lake Pepin ice cost $40,550, but the price of that bought at Chicago is unknown, and can only be estimated.

The testimony is unanimous that the winter had been usually open, and that ice was correspondingly scarce and dear. This was the reason for sending to Lake Pepin and the St. Lawrence. On this point see the evidence *passim*, and particularly pages 39, 45, 69, 116, 175. Alonzo J. Willard, a witness for the defendants, says the average market price of ice at Chicago for ten years was about $4, but thinks it was that year from $10 to $12.50. The records of this office show that a contract was made May 7, 1862, with the Chicago Ice Company. The price was $5 per ton, and $10.50 when packed in car-loads for transportation. In an affidavit of Joel H. Wicker, taken for the claimant, and numbered "10" among these papers, it is stated that the prices paid ranged "from $5 to $8 a ton in different lots and from different persons." In view of the facts just cited, and the further consideration that a large number of items have to be thrown out entirely for uncertainty, it is considered fair to assume the mean of the two prices named in the affidavit, $6.50 per ton.

This would make for the unused Chicago ice	$26,708.50
Add the ice at Lake Pepin	40,550.00
Total cost of ice lost	67,258.50

The Supreme Court hold that the claimant is entitled to recover his necessary expenses in procuring and taking care of the ice. The greater part of these, however, are unknown, and can not be taken into account. Document No. 6 is an affidavit of the claimant that the expenses he incurred in taking care of the ice that was lost would "exceed rather than fall short of the sum of $5,000." Whether that estimate be correct or not, it should be set aside, as not being sufficiently specific or authenticated. On page 214 of the record will be found a memorandum of account with Parish & Co., kept and sworn to by John McA. Campbell, clerk to Joel H. Wicker. The items of this account are properly divisible into four classes. First are those already included in price paid for the ice, and not to be reckoned again. The second class are such items as freight, connected with that part of the ice accepted by the Government, also to be excluded. Thirdly, there are items which can not be located; these will be presumed to be connected with the ice handled at Chicago. Four-thirteenths of these items may be allowed, that being the proportion of ice left on the contractor's hands. While this ice required less hauling and handling than the other, it required more storage. Fourthly, there are expenses connected with the Lake Pepin ice which are to be allowed in full. The third class comprises the items—

	To telegraph at sundry times	$15.77
	To fare to Saint Louis and back	24 00
	To telegraph	5.78
	To fare to Saint Louis and back	25.00
	To hay	6.14
	To sawdust, $10; to telegraph, $2	12.00
	To hay and sawdust	31.34
	To men, account labor in ice-house	143.36
	To sawdust	33.00
May 2.	To rent to Follenslur	200.00
13	To Chatterton, building ice-house	150.00
25.	To 5 baskets	3.75
25.	To watchman at ice-house	9.00
May 25.	To sawdust, 15 loads	7.50
25.	To men and teams	138.00
27.	To labor	1.50
27.	To telegraph	3.08
30.	To Wadsam, Williard & Co	600.00
30.	To lumber from Presbry, Yard & Co	9.60
30.	To Hutchens, team	75.00
30.	To I. Furney, foreman	12.00
June 3.	To labor, 2 men	2.12
4.	To telegraph	1.00
4.	To teams hauling ice	40.00
4.	To telegraph	.87
5.	To watchman	9.00
8.	To sawdust	97.25
10.	To watchman	9.00
13.	To labor, Furney, 6 men	41.61
13.	To labor, Murphy	121.87

June 13.	To telegraph, $1.29, $1.20	$2.49
13.	To shavings	8.50
13.	To labor, 75 cents; telegraph, 95 cents; labor, $1.88	3.58
13.	To express, hauling tools	.50
17.	To telegraph, 73 cents; labor, $35.63	36.36
17.	To labor, $17.50; sawdust, $10	27.50
17.	To telegraph, 77 cents; labor, $137.96	138.73
20.	To labor, $14.25, $25, $7; shavings, $13.50	59.75
23.	To C. Mears, in full for lumber	104.42
24.	To labor, $10, $17, $9	36.00
24.	To sawdust, $12.50; labor, $29.27; telegraph, 90 cents	42.67
24.	To (Murphy, $5, labor) expense of Murphy, $20	25.00
24.	To hauling tools	1.00
24.	To telegraph, 45 cents; labor, $1.50	1.95
27.	To labor, $240.20; telegraph, $2.20	242.40
27.	To labor, $57, $52.14; teams, $64	173.14
27.	To I. P. Chapin, on boat	40.00
May 30.	To teams, hauling, omitted	8.00
30.	To telegraph	.95
July 1.	To labor, $19.40; telegraph, 77 cents, $1.15	21.32
3.	To telegraph	1.15
10.	To paid Murphy	75.00
11.	To hauling tools	1.00
14.	To telegraph	.87
14.	To labor, $7.68, $3	10.68
22.	To weighing ice	2.40
22.	To labor	99.50
		2,993.40
	Four-thirteenths of this amount is	921.04

The items pertaining wholly to the Lake Pepin ice are:

Paid lawyer at Reed's Landing	$50.00
To expenses to Reed's Landing and back	70.00
To Cullen, for ice-house	280.00
To telegraph to Minneola	1.57
May 27. To J. W. Cullen, lumber at Reed's Landing	280.00
Add to these expenses of Parish's trip to Lake Pepin	70.00
Services of J. T. Parish, taking care of ice from April 15 to September 30, including board and transportation, say $60 a month	330.00
	1,081.57

The deductions to be made are:

Judgment of the Court of Claims, March 9, 1881	$10,444.91
Lumber sold (page 109)	200.00
Lumber and ice sold (page 216)	274.35
	10,919.26

The account then stands:

Cost of ice lost	$67,258.50
Expenses at Chicago	921.04
Expenses at Lake Pepin	1,081.57
	69,261.11
Deduct as shown above	10,919.26
	58,341.85

If the foregoing computations be correct, there remains due Joseph W. Parish, under the decision of the Supreme Court, $58,341.85.

Very respectfully, your obedient servant,

JOS. K. BARNES,
Surgeon-General, United States Army.

The Hon. SECRETARY OF WAR.

That this rule is sometimes at variance with that which governs the acts of private citizens in a court of justice would not authorize us to depart from it in this case. The rule, however, is not uniform; and especially is it not so in regard to claims allowed by special acts of Congress, or referred by such acts to some Department or officer for settlement."

This was said in reference to unliquidated and unadjusted claims. Where the Government, by and through the fraud of its agents, gets possession and withholds from the rightful owner an ascertained, fixed, and certain amount, the claim for interest certainly stands upon higher equitable grounds than in the cases cited. The finding by the Court of Claims that the policy of the Government, as shown by the general rule pursued by Congress in passing acts for the relief of private claims, was to allow interest, is supported by the precedents.

Your committee, upon this proposition, beg leave to refer to and adopt this portion of House Report 391, Forty-third Congress, first session, which discusses the subject of interest as follows:

THE OBLIGATION TO PAY INTEREST ON THE AMOUNT AWARDED THE CHOCTAW NATION.

Your committee have given this question a most careful examination, and are obliged to admit and declare that the United States can not, in equity and justice, nor without national dishonor, refuse to pay interest upon the moneys so long withheld from the Choctaw Nation. Some of the reasons which force us to this conclusion are as follows:

1. The United States acquired the lands of the Choctaw Nation on account of which the said award was made on the 27th day of September, 1830, and it has held them for the benefit of its citizens ever since.

2. The United States had in its Treasury, many years prior to the 1st day of January, 1859, the proceeds resulting from the sale of the said lands, and have enjoyed the use of such moneys from that time until now.

3. The award in favor of the Choctaw Nation was an award under a treaty, and made by a tribunal whose adjudication was final and conclusive. (Comegys *vs.* Vasse, 1 Peters, 193.)

4. The obligations of the United States under its treaties with Indian nations have been declared to be equally sacred with those made by treaties with foreign nations. (Worcester *vs.* The State of Georgia, 6 Peters, 582.) And such treaties, Mr. Justice Miller declares, are to be construed liberally. (The Kansas Indians, 5 Wall., 737–760.)

5. The engagements and obligations of a treaty are to be interpreted in accordance with the principles of the public law, and not in accordance with any municipal code or executive regulation. No statement of this proposition can equal the clearness or force with which Mr. Webster declares it in his opinion on the Florida claims, attached to the report in the case of Letitia Humphreys (Senate Report No. 93, first session Thirty-sixth Congress, page 16). Speaking of the obligation of a treaty, he said:

"A treaty is the supreme law of the land. It can neither be limited nor restrained, nor modified, nor altered. It stands on the ground of national contract, and is declared by the Constitution to be the supreme law of the land, and this gives it a character higher than any act of ordinary legislation. It enjoys an immunity from the operation and effect of all such legislation.

"A second general proposition, equally certain and well established, is that the terms and the language used in a treaty are always to be interpreted according to the law of nations, and not according to any municipal code. This rule is of universal application. When two nations speak to each other they use the language of nations. Their intercourse is regulated, and their mutual agreements and obligations are to be interpreted by that code only, which we usually denominate the public law of the world. This public law is not one thing at Rome, another at London, and a third at Washington. It is the same in all civilized States; everywhere speaking with the same voice and the same authority."

Again, in the same opinion, Mr. Webster used the following language:

"We are construing a treaty, a solemn compact between nations. This compact between nations, this treaty, is to be construed and interpreted throughout its whole length and breadth, in its general provisions, and in all its details, in every phrase, sentence, word, and syllable in it, by the settled rules of the law of nations. No municipal code can touch it, no local municipal law affect it, no practice of an administrative department come near it. Over all its terms, over all its doubts, over all its ambiguities, if it have any, the law of nations 'sits arbitress.'"

6. By the principles of the public law, interest is always allowed as indemnity for the delay of payment of an ascertained and fixed demand. There is no conflict of authority upon this question among the writers on public law.

This rule is laid down by Rutherford in these terms:

"In estimating the damages which any one has sustained, when such things as he has a perfect right to are unjustly taken from him, or withholden, or intercepted, we are to consider not only the value of the thing itself, but the value likewise of the fruits or profits that might have arisen from it. He who is the owner of the thing is likewise the owner of the fruits or profits. So that it is properly a damage to be deprived of them as it is to be deprived of the thing itself." (Rutherford's Institutes, Book I, chap. 17, sec. 5.)

In laying down the rule for the satisfaction of injuries in the case of reprisals, in making which the strictest caution is enjoined not to transcend the clearest rules of justice, Mr. Wheaton, in his work on the law of nations, says:

"If a nation has taken possession of that which belongs to another, if it refuses to pay a debt, to repair an injury or to give adequate satisfaction for it, the latter may seize something of the former and apply it to his advantage, till it obtains payment of what is due, together with interest and damages." (Wheaton on International Law, p. 341.)

A great writer, Domat, thus states the law of reason and justice on this point:

"It is a natural consequence of the general engagement to do wrong to no one that they who cause any damages by failing in the performance of that engagement are obliged to repair the damage which they have done. Of what nature soever the damage may be, and from what cause soever it may proceed, he who is answerable for it ought to repair it by an *amende* proportionable either to his fault or to his offense or other cause on his part, and to the loss which has happened thereby." (Domat, Part I, Book III, Tit. V., 1900, 1903.)

"Interest" is, in reality, in justice, in reason, and in law, too, a part of the debt due. It includes, in Pothier's words, the loss which one has suffered, and the gain which he has failed to make. The Roman law defines it as "quantum mea interfuit; id est, quantum mihi abest, quantumque lucraci portui." The two elements of it were termed "lucrum cessans et damnum emergens." The payment of both is necessary to a complete indemnity.

Interest, Domat says, is the reparation or satisfaction which he who owes a sum of money is bound to make to his creditor for the damage which he does him by not paying him the money he owes him.

It is because of the universal recognition of the justice of paying, for the retention of moneys indisputably due and payable immediately, a rate of interest considered to be a fair equivalent for the loss of its use, that judgments for money everywhere bear interest. The creditor is deprived of this profit, and the debtor has it. What greater wrong could the law permit than that the debtor should be at liberty indefinitely to delay payment, and, during the delay, have the use of the creditor's moneys for nothing? They are none the less the creditor's moneys because the debtor wrongfully withholds them. He holds them in reality and essentially in trust; and a trustee is always bound to pay interest upon money so held.

In closing these citations from the public law, the language of Chancellor Kent seems eminently appropriate. He says: "In cases where the principal jurists agree, the presumption will be very great in favor of the solidity of their maxims, and no civilized nation that does not arrogantly set all ordinary law and justice at defiance will venture to disregard the uniform sense of established writers on international law."

7th. The practice of the United States in discharging obligations resulting from treaty stipulations has always been in accord with these well-established principles. It has exacted the payment of interest from other nations in all cases where the obligation to make payment resulted from treaty stipulations, and it has acknowledged that obligation in all cases where a liability was imposed upon it.

The most important and leading cases which have occurred are those which arose between this country and Great Britain; the first under the treaty of 1794, and the other under the first article of the treaty of Ghent. In the latter case the United States, under the first article of the treaty, claimed compensation for slaves and other property taken away from the country by the British forces at the close of the war in 1815. A difference arose between the two Governments, which was submitted to the arbitrament of the Emperor of Russia, who decided that "the United States of America are entitled to a just indemnification from Great Britian for all private property carried away by the British forces." A joint commission was appointed for the purpose of hearing the claims of individuals under this decision. At an early stage of the proceedings the question arose as to whether interest was a part of that "just indemnification" which the decision of the Emperor of Russia contemplated. The British commissioner denied the obligation to pay interest. The American commissioner, Langdon Cheves, insisted upon its allowance, and in the course of his argument upon this question said:

"Indemnification means a re-imbursement of a loss sustained. If the property taken away on the 17th of February, 1815, were returned now uninjured it would not re-

imburse the loss sustained by the taking away and consequent detention; it would not be an indemnification. The claimant would still be unindemnified for the loss of the use of his property for ten years, which, considered as money is nearly equivalent to the original value of the principal thing."

Again he says:

"If interest be an incident usually attendant on the delay of payment of debts, damages are equally an incident attendant on the withholding an article of property."

In consequence of this disagreement the commission was broken up, but the claims were subsequently compromised by the payment of $1,204,960, instead of $1,250,000, as claimed by Mr. Cheves; and of the sum paid by Great Britain, $418,000 was expressly for interest.

An earlier case, in which this principle of interest was involved, arose under the treaty of 1794, between the United States and Great Britain, in which there was a stipulation on the part of the British Government in relation to certain losses and damages sustained by American merchants and other citizens, by reason of the illegal or irregular capture of their vessels, or other property, by British cruisers; and the seventh article provided in substance that "full and complete compensation for the same will be made by the British Government to the said claimants."

A joint commission was instituted under this treaty, which sat in London, and by which these claims were adjudicated. Mr. Pinckney and Mr. Gore were commissioners on the part of the United States, and Dr. Nicholl and Dr. Swabey on the part of Great Britain; and it is believed that in all instances this commission allowed interest as a part of the damage. In the case of "The Betsey," one of the cases which came before the board, Dr. Nicholl stated the rule of compensation as follows:

"To reimburse the claimants the original cost of their property, and all the expenses they have actually incurred, together with interest on the whole amount, would, I think, be a just and adequate compensation. This, I believe, is the measure of compensation usually made by all belligerent nations, and accepted by all neutral nations, for losses, costs, and damages occasioned by illegal captures." (Vide Wheaton's Life of Pinckney, page 198; also 265, note, and page 371.)

By a reference to the American State Papers, Foreign Relations, vol. 2, pages 119, 120, it will be seen by a report of the Secretary of State of the 16th February, 1798, laid before the House of Representatives, that interest was awarded and paid on such of these claims as had been submitted to the award of Sir William Scott and Sir John Nicholl, as it was in all cases by the Board of Commissioners. In consequence of some difference of opinion between the members of this Commission, their proceedings were suspended until 1802, when a convention was concluded between the two Governments, and the Commission reassembled, and then a question arose as to the allowance of interest on the claims during the suspension. This the American Commissioners claimed, and though it was at first resisted by the British Commissioners, yet it was finally yielded, and interest was allowed and paid. (See Mr. King's three letters to the Secretary of State, of 25th March, 1803, 23d April, 1803, and 30th April, 1803, American State Papers, Foreign Relations, vol. 2, pages 387 and 388.)

Another case in which this principle was involved arose under the treaty of the 27th October, 1795, with Spain; by the twenty-first article of which, "in order to terminate all differences on account of the losses sustained by citizens of the United States in consequence of their vessels and cargoes having been taken by the subjects of his Catholic Majesty during the late war between Spain and France, it is agreed that all such cases shall be referred to the final decision of Commissioners, to be appointed in the following manner," etc. The Commissioners were to be chosen, one by the United States, one by Spain, and the two were to choose a third, and the award of the Commissioners, or any two of them, was to be final, and the Spanish Government to pay the amount in specie.

This Commission awarded interest as part of the damages. (See American State Papers, vol. 2, Foreign Relations, page 283.) So in the case of claims of American citizens against Brazil, settled by Mr. Tudor, United States minister, interest was claimed and allowed. (See Ex. Doc., first session Twenty-fifth Congress, House Reps., Doc. 32, page 249.)

Again, in the convention with Mexico of the 11th April, 1839, by which provision was made by Mexico for the payment of claims of American citizens for injuries to persons and property by the Mexican authorities, a Mixed Commission was provided for, and this Commission allowed interest in all cases. (House Ex. Doc. 291, Twenty-seventh Congress, second session.)

So also under the treaty with Mexico of February 2, 1848, the Board of Commissioners for the adjustment of claims under that treaty allowed interest in all cases from the origin of the claim until the day when the Commission expired.

So also under the convention with Colombia, concluded February 10, 1864, the Commission for the adjudication of claims under that treaty allowed interest in all cases as a part of the indemnity.

So under the recent convention with Venezuela, the United States exacted interest upon the awards of the Commission, from the date of the adjournment of the Commission until the payment of the awards.

The Mixed American and Mexican Commission, now in session here, allows interest in all cases from the origin of the claim and the awards are payable with interest.

Other cases might be shown in which the United States or their authorized diplomatic agents have claimed interest in such cases, or where it has been paid in whole or in part. (See Mr. Russell's letter to the Count de Engstein of October 5, 1818, American State Papers, vol. 4, p. 639, and proceedings under the convention with the Two Sicilies of October, 1832, Elliot's Dip. Code, p. 625.)

It can hardly be necessary to pursue these precedents further. They sufficiently and clearly show the practice of this Government with foreign nations, or with claimant under treaties.

8th. The practice of the United States in its dealings with the various Indian tribes or nations has been in harmony with these principles.

In all cases where money belonging to Indian nations has been retained by the United States, it has been so invested as to produce interest for the benefit of the nation to which it belongs; and such interest is annually paid to the nation who may be entitled to receive it.

9th. The United States in adjusting the claim of the Cherokee Nation for a balance due as purchase money upon lands ceded by the nation to the United States in 1835, allowed interest upon the balance due them, being $189,422.76, until the same was paid.

The question was submitted to the Senate of the United States, as to whether interest should be allowed them. The Senate Committee on Indian Affairs, in their report upon this subject, used the following language:

"By the treaty of August, 1846, it was referred to the Senate to decide, and that decision to be final, whether the Cherokees shall receive interest on the sums found due them from a misapplication of their funds to purposes with which they were not chargeable, and on account of which improper charges the money has been withheld from them. It has been the uniform practice of this Government to pay and demand interest in all transactions with foreign governments, which the Indian tribes have always been said to be, both by the Supreme Court and all other branches of our Government, in all matters of treaty or contract. The Indians, relying upon the prompt payment of their dues, have, in many cases, contracted debts upon the faith of it, upon which they have paid, or are liable to pay, interest. If, therefore, they do not now receive interest on their money so long withheld from them they will in effect have received nothing." (Senate Report No. 176, first session Thirty-first Congress, p. 78.)

10th. That upon an examination of the precedents where Congress has passed acts for the relief of private citizens, it will be found that, in almost every case, Congress has directed the payment of interest, where the United States had withheld a sum of money which had been decided by competent authority to be due, or where the amount due was ascertained, fixed, and certain.

The following precedents illustrate and enforce the correctness of this assertion, and sustain this proposition:

1. An act approved January 14, 1793, provided that lawful interest from the 16th of May, 1776, shall be allowed on the sum of $200 ordered to be paid to Return J. Meigs, and the legal representatives of Christopher Greene, deceased, by a resolve of the United States, in Congress assembled, on the 28th of September, 1785. (6 Stats. at Large, p. 11.)

2. An act approved May 31, 1794, providing for a settlement with Arthur St. Clair, for expenses while going from New York to Fort Pitt and till his return, and for services in the business of Indian treaties, and "allowed interest on the balance found to be due him." (6 Stats. at Large, p. 16.)

3. An act approved February 27, 1795, authorized the officers of the Treasury to issue and deliver to Angus McLean, or his duly authorized attorney, certificates for the amount of $254.43, bearing interest at 6 per cent. from the 1st of July, 1783, being for his services in the Corps of Sappers and Miners during the late war. (6 Stats. at Large, p. 20.)

4. An act approved January 23, 1798, directing the Secretary of the Treasury to pay General Kosciusko an interest at the rate of 6 per cent. per annum on the sum of $12,280.54, the amount of a certificate due to him from the United States from the 1st of January, 1793, to the 31st of December, 1797. (6 Stats. at Large, p. 32.)

5. An act approved May 3, 1802, provided that there be paid Fulwar Skipwith the sum of $4,550, advanced by him for the use of the United States, with interest at the rate of 6 per cent. per annum from the 1st of November, 1795, at which time the advance was made. (6 Stats. at Large, p. 48.)

6. An act for the relief of John Coles, approved January 14, 1804, authorized the proper accounting officers of the Treasury to liquidate the claim of John Coles, owner

of the ship *Grand Turk*, heretofore employed in the service of the United States, for the detention of said ship at Gibraltar from the 10th of May to the 4th of July, 1801, inclusive, and that he be allowed demurrage at the rate stipulated in the charter-party, together with the interest thereon. (6 Stat. at L., p. 50.)

7. An act approved March 3, 1807, provided for a settlement of the accounts of Oliver Pollock, formerly commercial agent for the United States at New Orleans, allowing him certain sums and commissions, with interest until paid. (6 Stat. at L., p. 65.)

8. An act for the relief of Stephen Sayre, approved March 3, 1807, provided that the accounting officers of the Treasury be authorized to settle the account of Stephen Sayre, as secretary of legation at the court of Berlin, in the year 1777, with interest on the whole sum until paid. (6 Stat. at L., p. 65.)

9. An act, approved April 25, 1810, directed the accounting officers of the Treasury to settle the account of Moses Young, as secretary of logation to Holland in 1780, and providing that after the deduction of certain moneys paid him, the balance, with interest thereon, should be paid. (6 Stat. at L., p. 89.)

10. An act approved May 1, 1810, for the relief of P. C. L'Enfant, directed the Secretary of the Treasury to pay him the sum of $666, with legal interest thereon from March 1, 1792, as a compensation for his services in laying out the plan of the city of Washington. (6 Stat. at L., p. 92.)

11. An act approved January 10, 1812, provided that there be paid to John Burnham the sum of $126.72, and the interest on the same since the 30th of May, 1796, which, in addition to the sum allowed him by the act of that date, is to be considered a re-imbursement of the money advanced by him for his ransom from captivity in Algiers. (6 Stat. at L., p. 101.)

12. An act approved July 1, 1812, for the relief of Anna Young, required the War Department to settle the account of Col. John Durkee, deceased, and to allow said Anna Young, his sole heiress and representative, said seven years' half pay, and interest thereon. (6 Stat. at L., p. 110.)

13. An act approved February 25, 1813, provided that there be paid to John Dixon the sum of $329.84, with 6 per cent. per annum interest thereon from the 1st of January, 1785, "being the amount of final-settlement certificate No. 596, issued by Andrew Dunscomb, late commissioner of accounts for the State of Virginia, on the 23d of December, 1786, to Lucy Dixon, who transferred the same to John Dixon. (6 Stat. at L., p. 117.)

14. An act approved February 25, 1813, required the accounting officers of the Treasury to settle the account of John Murray, representative of Dr. Henry Murray, and that he be allowed the amount of three loan-certificates for $1,000, with interest from the 29th of March, 1782, issued in the name of said Murray, signed Francis Hopkinson, treasurer of loans. (6 Stat. at L., p. 117.)

15. An act approved March 3, 1813, directed the accounting officers of the Treasury to settle the accounts of Samuel Lapsley, deceased, and that they be allowed the amount of two final-settlement certificates, No. 78,446, for one thousand dollars, and No. 78,447, for one thousand three hundred dollars, and interest from the 22d day of March, 1783, issued in the name of Samuel Lapsley, by the Commissioner of Army accounts for the United States on the 1st day of July, 1784. (6 Stat. at L., p. 119.)

16. An act approved April 13, 1814, directed the officers of the Treasury to settle the account of Joseph Brevard, and that he be allowed the amount of a final-settlement certificate for $183.23, dated February 1, 1785, and bearing interest from the 1st of January, 1783, issued to said Brevard by John Pierce, commissioner for settling Army accounts. (6 Stat. at L., p. 134.)

17. An act approved April 18, 1814, directed the receiver of public moneys at Cincinnati to pay the full amount of moneys, with interest, paid by Dennis Clark, in discharge of the purchase money for a certain fractional section of land purchased by said Clark. (6 Stat. at L., 141.)

18. An act for the relief of William Arnold, approved February 2, 1815, allowed interest on the sum of $600 due him from January 1, 1873. (6 Stat. at L., 146.)

19. An act approved April 26, 1816, directed the accounting officers of the Treasury to pay to Joseph Wheaton the sum of eight hundred and thirty-six dollars and forty-two cents, on account of interest due him from the United States upon sixteen hundred dollars and eighty-four cents, from April 1, 1807, to December 21, 1815, pursuant to the award of George Youngs and Elias B. Caldwell, in a controversy between the United States and the said Joseph Wheaton. (6 Stat. at L., 166.)

20. An act approved April 26, 1816, authorized the liquidation and settlement of the claim of the heirs of Alexander Roxburgh, arising on a final-settlement certificate issued on the 18th of August, 1784, for $480.87, by John Pierce, commissioner for settling Army accounts, bearing interest from the 1st of January, 1782. (6 Stat. at L., 167.)

21. An act approved April 14, 1818, authorized the accounting officers of the Treasury Department "to review the settlement of the account of John Thompson," made

under the authority of an act approved the 11th of May, 1812, and "to allow the said John Thompson interest at six per cent. per annum from the 4th of March, 1787, to the 20th of May, 1812, on the sum which was found due to him, and paid under the act aforesaid." (6 Stat. at L., 208.)

22. An act approved May 11, 1820, directed the proper officers of the Treasury to pay to Samuel B. Beall the amount of two final-settlement certificates issued to him on the 1st of February, 1785, for his services as a lieutenant in the Army of the United States during the Revolutionary war, together with interest on the said certificates, at the rate of six per cent. per annum, from the time they bore interest, respectively, which said certificates were lost by the said Beall, and remain yet outstanding and unpaid. (6 Laws of U. S., 510; 6 Stat. at L., 249.)

23. An act approved May 15, 1820, required that there be paid to Thomas Leiper the specie value of four loan-office certificates, issued to him by the commissioner of loans for the State of Pennsylvania, on the 27th of February, 1779, for $1,000 each; and also the specie value of two loan certificates, issued to him by the said commissioner on the 2d day of March, 1779, for $1,000 each, with interest at 6 per cent. annually. (6 Stat. at L., 252.)

24. An act approved May 7, 1822, provided that there be paid to the legal representatives of John Guthry, deceased, the sum of $123.30, being the amount of a final-settlement certificate, with interest at the rate of 6 per cent. per annum, from the 1st day of January, 1788. (6 Stat. at L., 269.)

25. An act for the relief of the legal representatives of James McClung, approved March 3, 1823, allowed interest on the amount due at the rate of 6 per cent. per annum from January 1, 1788. (6 Stat. at L., 284.)

26. An act approved March 3, 1823, for the relief of Daniel Seward, allowed interest to him for money paid to the United States for land to which the title failed, at the rate of six per cent. per annum from January 29, 1814. (6 Stat. at L., $286.

27. An act approved May 5, 1824, directed the Secretary of the Treasury to pay to Amasa Stetson the sum of $6,215, "being for interest on moneys advanced by him for the use of the United States, and on warrants issued in his favor, in the years 1814 and 1815, for his services in the Ordnance and Quartermaster's Department, for superintending the making of army clothing and for issuing the public supplies." (6 Stat. at L., 298.)

28. An act approved March 3, 1824, directed the proper accounting officers of the Treasury to settle and adjust the claim of Stephen Arnold, David and George Jenks, for the manufacture of three thousand nine hundred and twenty-five muskets, with interest thereon from the 26th day of October, 1813. (6 Stat. at L., 331.)

29. An act approved May 20, 1826, directed the proper accounting officers of the Treasury to settle and adjust the claim of John Stemman and others for the manufacture of four thousand one hundred stand of arms, and to allow interest on the amount due from October 26, 1813. (6 Stat. at L., 345.)

30. An act approved May 20, 1826, for the relief of Ann D. Taylor, directed the payment to her of the sum of three hundred and fifty-four dollars and fifteen cents, with interest thereon at the rate of six per cent. per annum from December 30, 1786, until paid. (6 Stat. at L., 351.)

31. An act approved March 3, 1827, provided that the proper accounting officers of the Treasury were authorized to pay to B. J. V. Valkenburg the sum of $597.24, "being the amount of fourteen indents of interest, with interest thereon from the 1st of January, 1791, to the 31st of December, 1826." (6 Stat. at L., 365.)

In this case the United States paid interest on interest.

32. An act approved May 19, 1828, provided that there be paid to the legal representatives of Patience Gordon the specie value of a certificate issued in the name of Patience Gordon by the commissioner of loans for the State of Pennsylvania, on the 7th of April, 1778, with interest at the rate of 6 per cent. per annum from the 1st day of January, 1788. (7 Stat. at L., p. 378.)

33. An act approved May 29, 1830, required the Treasury Department "to settle the accounts of Benjamin Wells, as deputy commissary of issues at the magazine at Monster Mills, in Pennsylvania, under John Irvin, deputy commissary-general of the Army of the United States, in said State, in the Revolutionary war;" and that "they credit him with the sum of $574.04, as payable February 9, 1779, and $326.67, payable July 20, 1780, in the same manner, and with such interest, as if these sums, with their interest from the times respectively as aforesaid, had been subscribed to the loan of the United States." (6 Stats. at Large, 447.)

34. An act approved May 19, 1832, for the relief of Richard G. Morris, provided for the payment to him of two certificates issued to him by Timothy Pickering, quartermaster-general, with interest thereon from the 1st of September, 1781. (6 Stats. at Large, 486.)

35. An act approved July 4, 1832, for the relief of Aaron Snow, a Revolutionary soldier, provided for the payment to him of two certificates issued by John Pierce, late

commissioner of army accounts, and dated in 1784, with interest thereon. (6 Stats. at Large, 503.)

36. An act approved July 4, 1832, provided for the payment to W. P. Gibbs of a final-settlement certificate dated January 30, 1784, with interest at six per cent. from the 1st of January, 1783, up to the passage of the act. This act went behind the final certificate and provided for the payment of interest anterior to its date. (6 Stats. at Large, 504.)

37. An act approved July 14, 1832, directed the payment to the heirs of Ebenezer L. Warren of certain sums of money illegally demanded and received from the United States from the said Warren as one of the sureties of Daniel Evans, formerly collector of direct taxes, with interest thereon at the rate of six per cent. per annum from September 9, 1820. (6 Stats. at Large, 373.)

38. An act for the relief of Hartwell Vick, approved July 14, 1832, directed the accounting officers of the Treasury to refund to the said Vick the money paid by him to the United States for a certain tract of land which was found not to be property of the United States, with interest thereon at the rate of six per centum per annum, from the 23d day of May, 1818. (6 Stats. at Large, 523.)

39. An act approved June 18, 1834, for the relief of Martha Bailey and others, directed the Secretary of the Treasury to pay to the parties therein named the sum of four thousand eight hundred and thirty-seven dollars and sixty-one cents., being the amount of interest upon the sum of two hundred thousand dollars, part of a balance due from the United States to Elbert Anderson on the 26th day of October, 1814; also the further sum of nine thousand five hundred and ninety-five dollars and thirty-six cents, being the amount of interest accruing from the deferred payment of warrants issued for balances due from the United States to said Anderson from the date of such warrants until the payment thereof; also the further sum of two thousand and eighteen dollars and fifty cents admitted to be due from the United States to the said Anderson by a decision of the Second Comptroller, with interest on the sum last mentioned from the period of such decision until paid. (6 Stats. at Large, 562.)

40. An act approved June 10, 1834, directed the Secretary of the Treasury to pay balance of damages recovered against William C. H. Waddell, United States marshal for the southern district of New York, for the illegal seizure of a certain importation of brandy, on behalf of the United States, with legal interest on the amount of said judgment from the time the same was paid by said Waddell. (6 Stats. at Large, 594.)

41. An act approved February 17, 1836, directed the payment of the sum therein named to Marinus W. Gilbert, being the interest on money advanced by him to pay off troops in the service of the United States, and not repaid when demanded. (6 Stats. at Large, 622.)

42. An act approved February 17, 1836, for the relief of the executor of Charles Wilkins, directed the Secretary of the Treasury to settle the claim of the said executor, for interest on a liquidated demand in favor of Jonathan Taylor, James Morrison, and Charles Wilkins, who were lessees of the United States, of the salt works in the State of Illinois. (6 Stats. at Large, 626.)

43. An act approved July 2, 1836, for the relief of the legal representatives of David Caldwell, directed the proper accounting officers of the Treasury to settle the claim of the said David Caldwell for fees and allowances, certified by the circuit court of the United States for the eastern district of Pennsylvania, for official services to the United States, and to pay on that account the sum of four hundred and ninety-six dollars and thirty-eight cents, with interest thereon at the rate of six per centum from the 25th day of November, 1830, till paid. (6 Stats. at Large, 664.)

44. An act approved July 2, 1836, provided that there be paid Don Carlos Delossus interest at the rate of six per centum per annum on three hundred and thirty-three dollars, being the amount allowed him under the act of July 14, 1832, for his relief, on account of moneys taken from him at the capture of Baton Rouge, La., on the 23d day of September, 1810, being the interest to be allowed from the said 23d day of September, 1810, to the 14th day of July, 1832. (6 Stats. at Large, 672.)

In this case the interest was directed to be paid four years after the principal had been satisfied and discharged.

45. An act approved July 7, 1838, provided that the proper officers of the Treasury be directed to settle the accounts of Richard Harrison, formerly consular agent of the United States at Cadiz, in Spain, and to allow him, among other items, the interest on the money advanced, under agreement with the minister of the United States in Spain, for the relief of destitute and distressed seamen, and for their passages to the United States from the time the advances, respectively, were made to the time at which the said advances were reimbursed. (6 Stats. at Large, 734.)

46. An act approved August 11, 1842, directed the Secretary of the Treasury to pay to John Johnson the sum of seven hundred and fifty-six dollars and eighty-two cents, being the amount received from the said Johnson upon a judgment against him in favor of the United States, together with the interest thereon from the time of such payment. (6 Stats. at Large, 856.)

47. An act approved August 3, 1846, authorized the Secretary of the Treasury to pay to Abraham Horbach the sum of five thousand dollars, with lawful interest from the 1st of January, 1836, being the amount of a draft drawn by James Reeside on the Post-Office Department, dated April 18, 1835, payable on the 1st of January, 1836, and accepted by the treasurer of the Post-Office Department, which said draft was indorsed by said Abraham Horbach at the instance of the said Reeside, and the amount drawn from the Bank of Philadelphia, and at maturity, said draft was protested for non-payment, and said Horbach became liable to pay, and in consequence of his indorsement, did pay the full amount of said draft. (9 Stats. at Large, 677.)

48. An act approved February 5, 1859, authorized the Secretary of War to pay to Thomas Laurent, as surviving partner, the sum of $15,000, with interest at the rate of 6 per cent. yearly, from the 11th of November, 1847, it being the amount paid by the firm on that day to Major-General Winfield Scott, in the city of Mexico, for the purchase of a house in said city, out of the possession of which they were since ousted by the Mexican authorities. (11 Stats. at Large, 558.)

49. An act approved March 2, 1847, directed the Secretary of the Treasury to pay the balance due to the Bank of Metropolis for moneys due upon the settlement of the account of the bank with the United States, with interest thereon from the 6th day of March, 1838. (9 Stats. at Large, 689.)

50. An act approved July 20, 1852, directed the payment to the legal representatives of James C. Watson, late of the State of Georgia, the sum of fourteen thousand six hundred dollars, with interest at the rate of six per cent. per annum, from the 8th day of May, 1838, till paid, being the amount paid by him, under the sanction of the Indian agent, to certain Creek warriors, for slaves captured by said warriors while they were in the service of the United States against the Seminole Indians in Florida. (10 Stat. at Large, 734.)

51. An act approved July 29, 1854, directed the Secretary of the Treasury to pay to John C. Fremont one hundred and eighty-three thousand eight hundred and twenty-five dollars, with interest thereon from the 1st day of June, 1851, at the rate of ten per cent. per annum, in full for his account for beef delivered to Commissioner Barbour, for the use of the Indians in California, in 1851 and 1852. (10 Stat. at Large, 804.)

52. An act approved July 8, 1870, directed the Secretary of the Treasury to make proper payments to carry into effect the decree of the district court of the United States for the district of Louisiana, bearing date the 4th of June, 1867, in the case of the British brig *Volant*, and her cargo; and also another decree of the same court, bearing date the 11th of June, in the same year, in the case of the British bark *Science*, and cargo, vessels illegally seized by a cruiser of the United States; such payments to be made as follows, viz: To the several persons named in such decrees, or their legal representatives, the several sums awarded to them, respectively, with interest to each person from the date of the decree under which he receives payment (16 Stat. at Large, 650.)

53. An act approved July 8, 1870, directed the Secretary to make the proper payments to carry into effect the decree of the district court of the United States for the district of Louisiana, bearing date July 13, 1867, in the case of the British brig *Dashing Wave*, and her cargo, illegally seized by a cruiser of the United States, which decree was made in pursuance of the decision of the Supreme Court, such payments to be made with interest from the date of the decree. (16 Stat. at Large, 651.)

An examination of these cases will show that, subsequent to the seizure of these several vessels, they were each sold by the United States marshal for the district of Louisiana as prize, and the proceeds of such sales deposited by him in the First National Bank of New Orleans. The bank, while the proceeds of these sales were on deposit there, became insolvent. The seizures were held illegal, and the vessels not subject to capture as prize. But the proceeds of the sales of these vessels and their cargoes could not be restored to the owners in accordance of the decrees of the district court, because the funds had been lost by the insolvency of the bank. In these cases, therefore, Congress provided indemnity for losses resulting from the acts of its agents, and made the indemnity complete by providing for the payment of interest.

Your committee have directed attention to these numerous precedents for the purpose of exposing the utter want of foundation of the often repeated assumption that "the Government never pays interest." It will readily be admitted that there is no statute law to sustain this position. The idea has grown up from the custom and usage of the accounting officers and Departments refusing to allow interest generally in their accounts with disbursing officers, and in the settlement of unliquidated domestic claims arising out of dealings with the Government. It will hardly be pretended, however, that this custom of usage is so, "reasonable," well known, and "certain," as to give it the force and effect of law, and to override and trample under foot the law of nations and also the well-settled practice of the Government itself in its intercourse with other nations.

11th. Interest was allowed and paid to the State of Massachusetts because the United States delayed the payment of the principal for twenty-two years after the

amount due had been ascertained and determined. The amount appropriated to pay this interest was $678,362.41, more than the original principal. (16 Stat. at Large, 198.)

Mr. Sumner, in his report upon the memorial introduced for that purpose, discussing this question of interest, said:

"It is urged that the payment of this interest would establish a bad precedent. If the claim is just, the precedent of paying it is one of which our Government should wish to establish. Honesty and justice are not precedents of which either Government or individuals should be afraid. (Senate Report 4, 41st Cong., 1st sess., p. 10.)

12th. Interest has always been allowed to the several States for advances made to the United States for military purposes.

The claims of the several States for advances during the Revolutionary war were adjusted and settled under the provision of the acts of Congress of August 5, 1790, and of May 31, 1794. By these acts interest was allowed to the States, whether they had advanced money on hand in their treasuries or obtained by loans.

In respect to the advances of States during the war of 1812–'15, a more restricted rule was adopted, viz: That States should be allowed interest only so far as they had themselves paid it by borrowing, or had lost it by the sale of interest-bearing funds.

Interest, according to this rule, has been paid to all the States which made advances during the war of 1812–'15 with the exception of Massachusetts. Here are the cases:

Virginia, U. S. Stats. at Large, vol. 4, p. 161.
Delaware, U. S. Stats. at Large, vol. 4, p. 175.
New York, U. S. Stats. at Large, vol. 4, p. 192.
Pennsylvania, U. S. Stats. at Large, vol. 4, p. 241.
South Carolina, U. S. Stats. at Large, vol. 4, p. 499.

In Indian and other wars the same rule has been observed, as in the following cases:

Alabama, U. S. Stats. at Large, vol. 9, p. 344.
Georgia, U. S. Stats. at Large, vol. 9, p. 626.
Washington Territory, U. S. Stats. at Large, vol. 11, p. 429.
New Hampshire, U. S. Stats. at Large, vol. 10, p. 1.

13th. The Senate Committee on Indian Affairs, in the report to which reference has heretofore been made, speaking of this award and of the obligation of the United States to pay interest upon the balance remaining due and unpaid thereon, used the following language:

"Your committee are of opinion that this sum should be paid them with accrued interest from the date of said award, deducting therefrom $250,000, paid to them in money, as directed by the act of March 2, 1861; and, therefore, find no sufficient reason for further delay in carrying into effect that provision of the afore-named act, and the act of March 3, 1871, by the delivery of the bonds therein described, with accrued interest from the date of the act of March 8, 1861."

Your committee have discussed this question with an anxious desire to come to such a conclusion in regard to it as would do no injustice to that Indian nation whose rights are involved here nor establish such a precedent as would be inconsistent with the practice or duty of the United States in such cases. Therefore, your committee have considered it not only by the light of those principles of the public law—always in harmony with the highest demands of the most perfect justice—but also in the light of those numerous precedents which this Government in its action in like cases has furnished for our guidance. Your committee can not believe that the payment of interest on the moneys awarded by the Senate to the Choctaw Nation would either violate any principle of law or establish any precedent which the United States would not wish to follow in any similar case, and your committee can not believe that the United States are prepared to repudiate these principles, or to admit that because their obligation is held by a weak and powerless Indian nation it is any the less sacred or binding than if held by a nation able to enforce its payment and secure complete indemnity under it. Could the United States escape the payment of *interest* to Great Britain, if it should refuse or neglect, after the same became due, to pay the amount awarded in favor of British subjects by the recent joint commission which sat here? Could we delay payment of the amount awarded by that commission for fifteen years, and then escape by merely paying the principal? The Choctaw Nation asks the same measure of justice which we *must* accord to Great Britain; and your committee can not deny that demand unless they shall ignore and set aside those principles of the public law which it is of the utmost importance to the United States to always maintain inviolate.

Your committee are not unmindful that the amount due the Choctaw Nation under the award of the Senate is large. They are not unmindful, either, that the discredit of refusing payment is increased in proportion to the amount withheld and the time during which such refusal has been continued.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 431.

WILLIAM W. HANDLIN.

FEBRUARY 24, 1892.—Laid on the table and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3235.]

The Committee on War Claims, to whom was referred the bill (H. R. 3235) for the relief of William W. Handlin, respectfully report:

The bill, to quote its language, is as follows:

That William W. Handlin, formerly judge of the third district court of New Orleans, be paid on his warrant the sum of twenty thousand dollars, in satisfaction of four years' salary claimed by him.

During the late civil war, when the State of Louisiana was occupied by the troops of the United States, Brig. Gen. G. F. Shepley, who had been appointed military governor of the State, commissioned William W. Handlin as judge of the third district court of New Orleans. Handlin took the prescribed oath and entered upon the duties of his office. Subsequently, while the war was yet flagrant, a constitution was adopted for the State, under military orders, by a portion of its citizens, and Michael Hahn was elected governor, and was also appointed military governor, in place of Shepley, by the President.

Handlin, who remained judge after the election and appointment of Hahn, was removed from office. Asserting that, notwithstanding this removal, he remained of right in office and was entitled to its salary, Handlin, after the final suppression of the rebellion and reconstruction of the State, sued out a writ of mandamus in one of the inferior State courts of Louisiana against Wickliffe, the auditor of public accounts of the State, to compel payment. The judgment of the court was against him and the mandamus was dismissed. An appeal having been taken to the supreme court of the State and the judgment affirmed, Handlin carried the case to the Supreme Court of the United States by writ of error. The United States Supreme Court affirmed the decision of the supreme court of Louisiana.

That court said:

The appointment by Brig. Gen. Shepley, during the late rebellion, of W. W. Handlin as judge of the third district court of New Orleans, then occupied by the Government troops and under a military governor appointed by the President, was an appointment purely military, authorized only by the necessities of military occupation, and subject to revocation whenever, in the judgment of the military governor, revocation should become necessary or expedient. It was accordingly revocable by Governor Hahn in his capacity of military governor (which he was by appointment of the President) in case the adoption of the constitution (which some asserted was adopted) during the war under military orders and the election of Hahn as governor did not affect the military occupation; and in case it did, and being a civil constitution of the State in full operation, independent of military control, then the authority derived from the appointment of Brig. Gen. Shepley ceased of necessity, and the office became vacant (12 Wallace, p. 173).

Your committee, therefore, report adversely to the bill and recommend that it do lie upon the table.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 432.

CENSUS DEFICIENCY BILL.

FEBRUARY 24, 1892.—Ordered to be printed.

Mr. SAYERS, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany H. R. 5399.]

The Committee on Appropriations, to whom was referred the bill (H. R. 5399) making appropriation to supply a deficiency in the appropriation for the expenses of the Eleventh Census, and for other purposes, together with the amendments of the Senate thereto, having considered the same, beg leave to report as follows:

They recommend nonconcurrence in the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 433.

D. W. BOUTWELL.

FEBRUARY 25, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1772.]

The Committee on War Claims, to whom was referred the bill (H. R. 1772) for the relief of D. W. Boutwell, submit the following report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill with the following amendment:

In line 5, after "Boutwell," insert "of Topeka, Kansas."

[House Report No. 1183, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 4174) for the relief of D. W. Boutwell, report as follows:

Your committee adopt the report, hereto annexed, made by the Committee on War Claims of the Fiftieth Congress, and report back the bill and recommend its passage with the following amendment: In line 5, after "Boutwell," insert "of Topeka, Kansas."

[House Report No. 3520, Fiftieth Congress, first session.]

The claimant, Daniel W. Boutwell, served as a scout for the U. S. Army from June 22, 1862, to the 8th day of October, 1862, having charge of from 40 to 50 picked men under his command as such scout, for which service duplicate vouchers were issued to him by Lieut. Col. D. B. Corwin, commanding Second Indian Home Guards (at the time), for $262, in evidence of the amount due from the United States Government for said services. Claimant also supplied 20 cords of wood for the U. S. Army in January, 1862, for which duplicate vouchers were issued by Dr. A. J. Hunton, the assistant surgeon, Fifth Regiment Volunteer Cavalry, for $10 per cord.

It appears that these amounts have never been paid to said claimant. The vouchers above referred to were placed in the hands of Hon. Thomas Ryan, member of Congress from the State of Kansas, who says that the same with other papers were presented with the bill when the same was introduced, and that since that time the same have been lost or mislaid.

Your committee are of opinion that the claim is just and that there is due thereon the sum of $462.

Your committee recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 434.

SOLOMAN LUSK.

FEBRUARY 25, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5287.]

The Committee on War Claims, to whom was referred the bill (H. R. 5287) for the relief of Soloman Lusk, submit the following report:

This measure was considered by this committee in the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 571, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 6666) for the relief of Soloman Lusk, report as follows:

That the facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 3137, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2490) for the relief of Soloman Lusk, make the following report:

The claimant, Soloman Lusk, makes oath that in 1853 he lived in Virginia, about 10 miles from the District of Columbia, on what is known as the "Old Falls" road, and about 2 miles from Falls Church. That he owned there 10 acres of land, and worked on shares 50 acres belonging to S. W. Westfall and had for his share one-half of all the produce of the place; that he continued to reside there until, in July, 1861, he was driven from his home and out of the State; that he had property to the amount of $504.52 destroyed or appropriated by the Union soldiers; that said property consisted of corn, fence rails, cord wood, wheat, potatoes, fowls, farming implements, and other property; that he has not received pay for said property, or any part thereof.

The committee, on examination of the case, have reached the opinion that beneficiary named in this bill owned the property aforesaid, and that it was destroyed or appropriated by Union forces.

The committee further finds that the claimant was loyal, and that he has not received pay for this property, and therefore recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 435.

MATTHEW S. PRIEST.

FEBRUARY 25, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3398.]

The Committee on War Claims, to whom was referred the bill (H. R. 3398) for the relief of Matthew S. Priest, submit the following report:

This measure was considered by this committee in the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report:

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[House Report No. 570, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3030) for the relief of Matthew S. Priest, make the following report:

Matthew S. Priest was a private in Company G, Thirtieth Regiment of Ohio Volunteer Infantry, and served in that company and regiment, and was honorably discharged.

He was one of a detachment made by Gen. Grant to do special service on board the steamers *Silver Wave* and *Moderator* in running the batteries at Vicksburg and Grand Gulf, Miss.

Claimant served on such detachment, as engineer, from March, 1863, until September, 1863, as shown by affidavits of four comrades, one officer, and the records of the War Department.

The men and officers engaged in this service as aforesaid were authorized by a special order from Gen. Grant to be paid by the Quartermaster's Department in addition to their army pay, as appears by the records of the War Department.

Records of the War Department also show that many officers and soldiers serving as aforesaid were reported and received the pay by Capts. W. C. Hurlburt and William Finkle.

Records of the War Department do not show that this man, Matthew S. Priest, has received pay for the said service, or that any payment has been made therefor by the Government.

There can be no doubt that the man performed the service; that he has not received pay for the same; that he is entitled to pay therefor, and that the amount claimed is now justly due him from the Government, and we therefore earnestly recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 436.

EXPENSES FIRST MICHIGAN CAVALRY.

FEBRUARY 25, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5458.]

The Committee on War Claims, to whom was referred the bill (H. R. 5458) to amend section 10 of an act entitled "An act making appropriations for the sundry civil expenses of the Government for the year ending June 30, 1867," submit the following report:

This measure was considered by this committee in the Fiftieth Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 1995, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3393) to amend section 10 of an act approved July 28, 1866, report as follows:

This bill amends section 10 of the act referred to in the bill so as to pay the traveling expenses of those members of the First Regiment of Michigan Cavalry from the place in Utah Territory where they were mustered out of service in the year 1865, as well as in the year 1866, to the place of their enrollment. The present act, to which this is an amendment, provides for such pay for those mustered out in the year 1866.

Your committee hereto attach letters from the Second Auditor, by which it will appear that, in his opinion, there is no good reason why members of this regiment discharged in Utah in 1865, under circumstances which entitle them to travel pay, should be treated less generously than those who were discharged in 1866.

Your committee are of the same opinion, and therefore recommend that the bill do pass.

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
Washington, D. C., April 27, 1888.

SIR: In reply to your indorsement of the 23d instant on a letter addressed by the Secretary of War to Hon. O. B. Thomas, I have the honor to say that an examination of the rolls of the First Michigan Cavalry shows that 61 members of that regiment have not been paid their traveling expenses under the act of July 28, 1866. In connection with this matter, please see my report of the 9th instant, addressed to Mr. Thomas, in relation to bill (H. R. 3393) to amend the above-mentioned act.

The letter of the Secretary of War is returned herewith.

Respectfully yours,

WM. A. DAY,
Auditor.

Hon. WILLIAM J. STONE,
Chairman Committee on War Claims, House of Representatives.

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
Washington, D. C., April 9, 1888.

SIR: I have the honor to return herewith bill (H. R. 3393) to amend section 10, sundry civil act of July 28, 1866, with the following report:

On comparing said bill with the existing law, I find that the only amendment made by said bill is to insert the words "and 1865," so as to make the law apply to members of the First Michigan Cavalry who were discharged in Utah in 1865, as well as to those who were discharged in 1866. I am not informed as to what particular claim, if any, gave rise to the bill now under consideration; but on examining the records of the office I find that five claims presented by members of the First Michigan Cavalry who were discharged in 1865 have been disallowed. The disallowance could not be avoided, because the benefits of the act of 1866 are distinctly limited to soldiers discharged in 1866.

Although you do not ask for an expression of my opinion on the merits of the pending bill, I venture the remark that no good reason is apparent why members of the First Michigan Cavalry discharged in Utah in 1865 under circumstances which entitled them to travel pay should be treated less generously than those who were discharged in 1866.

Respectfully yours,

WM. A. DAY,
Auditor.

Hon. O. B. THOMAS,
War Claims Committee, House of Representatives.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 437.

LAURA E. SKEELS.

FEBRUARY 25, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SNOW, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1742.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1742) granting a payment of accrued pension to Laura E. Skeels, submit the following report:

Alexander F. Elmendorf enlisted August 21, 1861, in Company K, Second New York Cavalry, and died in service December 9, 1864. In July, 1880, a pension certificate, numbered 189143, was issued to allow pension to his dependent mother, Nancy M. Elmendorf, at the rate of $8 per month from December 10, 1864. Prior to the issuance of this certificate, however, the mother for whose benefit it was issued had died, on January 9, 1880, and hence no part of this pension was ever paid to her, and the entire amount reverted to the United States Treasury except a certain sum stated at $206.21, which was paid under section 4718, Revised Statutes, to reimburse the persons who bore the expenses of the last illness and funeral of the decedent.

The object of this bill is to permit the payment to Mrs. Laura E. Skeels, the daughter of Mrs. Elmendorf, the dependent mother above named, the amount of accrued pension which would have been due the mother up to January 9, 1880, if she had lived to receive her certificate, less the amount paid from such accrued pension as reimbursement for funeral expenses, and the amount involved is, in round numbers, about $1,240, which sum was legally due under the pension laws, but which can not now be paid because of the death of the beneficiary.

It appears from evidence submitted that the soldier's mother left two daughters, Mrs. Laura E. Skeels and Emily S. Elmendorf, who still survive. The latter waives all right, title, and interest in the accrued pension of her mother and all right to make claim or petition for the same, and testifies under oath that her sister, Laura E. Skeels, had the entire care and alone contributed to the support of their mother until her death. Mrs. Skeels also testifies that she alone had the care of her mother, who repeatedly stated that it was her desire and wish that she, Mrs. Skeels, should receive the pension due her to reimburse her for expense incurred in taking care of the mother during her life.

It appears from the papers on file in the Pension Office that Mrs. Skeels is the sister of the soldier as claimed, and it is also shown that she is entirely dependent on her own exertions for a living.

Your committee therefore return the bill with the recommendation

that it to pass after being amended by adding after line 7 the words "after deducting the amount already paid under section 4718, Revised Statutes, as reimbursement for funeral expenses;" also by inserting the word "accrued" before the word "pension" and striking out the words "and arrearages" in line 5; also by striking out the word "were" in line 5, and inserting in lieu thereof the word "was."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 438.

HEIRS OF EDMUND WOLF.

FEBRUARY 25, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3333.]

The Committee on War Claims, to whom was referred the bill (H. R. 3333) for the relief of the heirs of Edmund Wolf, submit the following report:

This claim was presented to the Fifty-first Congress and a favorable report was made thereon by the Committee on War Claims, to whom it was referred.

The investigation of the case by your committee has led them to the same conclusions, substantially, as those arrived at by the committee of the Fifty-first Congress. It is therefore deemed unnecessary to recapitulate the facts set forth in the report of that committee, a copy of which is hereto attached for information and made a part of this report.

Your committee recommend that the bill referred to them do pass.

House Report No. 1594, Fifty-first Congress, first session.

Mr. MAISH, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 7966.]

The Committee on War Claims, to which was referred bill (H. R. 7966) for the relief of the heirs of Edmund Wolf, submits the following report.

The claim is for the sum of $33,000 for stock, fixtures, tools, patterns, flasks, etc., in the Wrightsville Foundry, in York County, Pa., the property of Edmund Wolf, which was destroyed under the following circumstances:

Wrightsville is on the west side of the Susquehannah River and Columbia on the east side; said two towns were at the time the above property was destroyed connected by a wagon bridge across said river.

On the 28th day of June, A. D. 1863, Major-General Couch, commanding the Department of the Susquehannah, learning that a portion of the Confederate forces was approaching said town of Wrightsville with the intention of crossing the river at that place, in order to join a larger force which two days later engaged our Army on the field of Gettysburg, ordered said bridge to be burned in order to prevent its being used by the Confederate forces. The order was obeyed and the bridge was burned; but in its burning, fire was communicated to some buildings adjoining the western end of said bridge and by these communicated to Mr. Wolf's foundry, which was totally consumed. For this property so destroyed the claimants ask relief to the extent of the sum of $33,000.

The entire loyalty of Mr. Wolf is beyond doubt.

The question presented by these facts is one which was for some time mooted in this country, as it involves the liability of the sovereign to compensate a subject for property taken for precautionary purposes in time of war. The authorities upon this point were very fully and carefully collated by the late Senator Howe, of Wisconsin, in a report made to the Forty-second Congress upon the claim of J. Milton Best, after the same had been vetoed by the President. In the course of that report he says:

Among the text writers, Vattel discusses the very question, "Is the State bound to indemnify individuals for the damage they have sustained in war?" "Such damages," he says, "are of two kinds; those done by the State itself, or the sovereign, and those done by the enemy. Of the first kind some are done deliberately and by way of precaution, as when a field, a house, a garden, belonging to a private person, is taken for the purpose of erecting on the spot a town rampart, or any other piece of fortification, or when his standing corn or his store-houses are destroyed to prevent their being of use to the enemy. *Such damages are to be made good to the individual who should bear only the quota of the loss.*"

The same author speaks of damages caused by inevitable necessity, and he instances "the destruction caused by the artillery in retaking a town from an enemy. These are merely accidents. They are misfortunes which chance deals out to the proprietors on whom they happen to fall."

The distinction between the two kinds of damages is clear; one is the result of accident, the other is the result of design. The sovereign, clothed with the right to make war, has the right to march troops and to fire guns. Damages which are the accidental result of such lawful acts do not constitute a ground of claim. But whatever property the Government takes from its own obedient subjects for the more efficient prosecution of the war, should be compensated for, no matter whether it be forage fed to the cavalry horses, powder burned, timber used on the fortifications, houses removed to make way for such fortifications, or houses destroyed to make them more secure.

Grotius asserts the same doctrine. He says:

"The king may in two ways deprive his subjects of their right, either by way of punishment or by virtue of his eminent power. But if he do so in the last way, it must be for some public advantage and then the subject ought to receive, if possible, a just satisfaction for the loss he suffers out of the common stock."

Again he says:

"The state has an eminent right of property over the goods of the subjects, so that the state or those that represent it may make use of them, and even destroy and alienate them, not only in extreme necessity, but for the public benefit, to which we must add that the state is obliged to repair the damages suffered by any subject on that account out of the public stock."

Mr. William Whiting has discussed the subject of war claims with direct reference to the liabilities of the United States growing out of the late war. He writes with extreme caution, but even he asserts that—

"If the private property of loyal citizens, inhabitants of loyal States, is appropriated by our military forces for the purpose of supplying our armies and to aid in prosecuting hostilities against a public enemy, the Government is bound to give a reasonable compensation therefor to the owner."

Again he says:

"When individuals are called upon to give up what is their own for the advantage of the community, justice requires that they should be fairly compensated for it. Otherwise public burdens would be shared unequally."

Again he says:

"Public use does not require that the property taken shall be actually *used*. It may be *disused*, *removed*, or *destroyed*, and destruction of private property may be the best public use it can be put to. Suppose a bridge owned by a private corporation to be so located as to endanger our forts upon the banks of a river. To demolish that bridge for military purposes would be to appropriate it to public use."

Judicial authority is not less explicit than that of the text writers.

In Grant *v.* The United States, 1st N. & H. Reports, the court says:

"It may safely be assumed as the settled and fundamental law of Christian and civilized states that governments are bound to make just indemnity to the citizen or subject whenever private property is taken for the public *good, convenience, or safety.*"

In that case the United States was held to pay for the property destroyed in Arizona, merely to prevent it from falling into the hands of the enemy.

In the case of Mitchell *v.* Harmony, reported in 13th Howard, p. 115, Chief-Justice Taney, delivered the opinion of the court, says:

"There are, without doubt, occasions in which private property may occasionally be taken possession of or destroyed to prevent it from falling into the hands of the public enemy; and also where a military officer charged with a particular duty may impress private property into the public service or take it for public use. Unquestionably, in such cases, the Government is bound to make full compensation to the owner."

If, as the above authorities declare, the State must pay for the property of a citizen destroyed to prevent *it* from falling into the hands of an enemy, *a fortiori* should the state pay for property destroyed to prevent a *garrison* from falling into the hands of an enemy.

The uniform action of Congress has been in strict accord with the principles adjudicated by the courts and declared by the commentators. Congress has recognized the principle in a great variety of cases, and so far as can be discovered has never denied it. The war of the Revolution was fought before we had any constitutional prohibition against taking private property for public use without compensation. The troops for that war were furnished by the several States. Congress did not assume the obligation of making compensation for property taken by the military authority. But it clearly recognized the principle that compensation should be made. Accordingly, in 1784, a resolution was adopted from which the following is an extract:

"That it be referred to the *several States*, at their own expense, to grant such relief

to their citizens, who may have been injured as aforesaid, as they may think requisite, and if it shall hereafter appear reasonable that the United States should make any allowance to any particular State, which may be burdened much beyond others, that the allowance ought to be determined by Congress."

In accordance with that resolution, when, in 1818, Mary Brower and others petitioned for compensation to be made to them for property burned and destroyed on Long Island by the American Army on the advance of the British forces in August, 1776, the Committee on Revolutionary Claims of the House denied the prayer, not upon the ground that compensation should not be made, but upon the express ground that the sufferers ought to have appealed to the State of New York for such compensation. And notwithstanding the resolution of 1784, Congress did pass an act for the relief of an academy in Wilmington, of which the following is a copy:

"That, as an indemnification to the corporation of trustees of the public grammar school and academy of Wilmington, in the State of Delaware, for the use and occupation of the said school, and the damages done to the same by the troops of the United States, during the late war, there be granted to the said corporation of trustees a reasonable compensation, payable out of any unappropriated money in the Treasury of the United States, which compensation shall be ascertained by the accounting officers of the Treasury."

The relief granted by that resolution was recommended by Alexander Hamilton, then Secretary of the Treasury.

Subsequent to the war with Great Britain of 1812, a large number of claims for similar injuries were compensated by Congress. Reference is made to a few.

An appropriation was made to William H. Washington to compensate him for a house situate near the west end of the Potomac bridge, and which was "destroyed by order of an officer of the United States." The facts of the case, briefly stated, were that a corporal was placed in charge of the house, containing a quantity of public stores, with directions from his superior officer to blow up the house in case of an attack by the enemy. Hearing guns fired on the opposite side of the river, he apprehended an attack, and accordingly blew up the stores. The committee reported that, being of opinion "the officer to whose care the public stores were committed thought it prudent and proper to destroy the house and stores, to prevent the latter from coming into the possession of the enemy, the petitioner should be paid the value of his house." He was paid accordingly.

In 1867 an act was passed to pay J. O. Arms for a house destroyed in Fairfax County, Va. That house was destroyed, as the committee reported, by military orders, and to prevent its being used by the enemy as a cover for attack, and also as a point for observation. That act was approved by President Johnson.

In 1871 Congress passed an act making compensation to the Kentucky University for buildings destroyed. The buildings were taken by military authority. They were destroyed by accident. But if the Government is required to make compensation for buildings taken and then destroyed by *accident*, it is difficult to see why it should not pay for buildings taken and then destroyed by *design*. That act was approved by President Grant.

One other legislative precedent is worthy of notice. The case of Mitchell *v.* Harmony has already been referred to. In that case the property of the plaintiff was taken by military authority. As a consequence of the taking, the goods fell into the hands of the enemy. The courts held that the taking was unnecessary, and therefore required the officer in command to make compensation for the loss of the goods. But Congress held that inasmuch as the officer acted in good faith, and for what he believed to be the interests of the Government, the Government ought to protect him against the consequences of his mistake. Congress, therefore, assumed the defense of the officer before the Supreme Court, and when judgment was finally rendered against him assumed the payment of it.

To the foregoing precedents a great many might be added. Not a single case has been found in which Congress has denied the liability assumed in the precedents cited. Not a single authority has been found controverting the principle asserted by Grotius, by Vattel, by Whiting, by the Court of Claims, and by the Supreme Court of the United States.

Mr. Wolf's foundry was destroyed as the natural result of the burning of the bridge ordered by General Couch, not in any manner as the result of an accident. It was the consequence of the act of an officer of the Government acting in good faith and for what he believed to be the interest of the Government, and under such circumstances in view of the authorities cited the claim is just and proper. The committee, therefore, recommend that the bill do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 439.

MOUNT ZION SOCIETY.

FEBRUARY 25, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5262.]

The Committee on War Claims, to whom was referred the bill (H. R. 5262) for the relief of Mount Zion Society for the use and occupation of its property by the United States troops during the years 1865, 1866, 1867, and 1868, respectfully report:

Your committee find that the said premises were in the occupation of the United States troops from about the 20th of February, 1865, with irregular and unimportant intervals, until the relief of Gen. Canby, July 28, 1868.

The society organized for educational and charitable works, and owning the Mount Zion College buildings and 20 acres of land, situated in the corporate limits of the town of Winnsboro, in the State of South Carolina, which said premises were and are dedicated to the education of the youth of the land without regard to religious or sectional or other discrimination, and particularly "to the maintenance and education of such poor and helpless orphans and indigent children as they shall judge proper objects of the charity" by its charter intended.

Taking as the average attendance at said collegiate institute the number 210 each year while not occupied by the United States forces, with the average payment of $2.12½ per month per session of nine months, making for the attendance of each pupil per session $19.12½, which would make for each of said years the sum of $4,016.25, the amount the institution was damaged and lost through said occupation per year. Now, while the said occupation was discontinued on or about July 8, 1868, and before the end of said year, there may be some show of justice for the claim for the whole collegiate year.

But leaving out said claim for the year 1868, remaining after the leaving the possession on July 8 of the said year, we arrive at the occupation for three years and four months, which would make the sum $13,387.50; but inasmuch as said occupation was broken by desultory intervals, your committee have concluded to disallow the amount over and above the sum of $11,000, which said sum we recommend.

In arriving at this amount it will be observed that no damage for the defacing, bruising, and otherwise injuring the buildings and grounds enter into its composition.

Your committee therefore recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 440.

REDUCTION IN THE ENGINEER CORPS OF THE NAVY.

FEBRUARY 25, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. MCALEER, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany H. R. 378.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 378) terminating the reduction in the Engineer Corps of the Navy, respectfully report:

This bill asks simply that the number of officers now in the Engineer Corps of the Navy be retained, without any further reduction by the operation of an act of Congress dated August 5, 1882, and in view of the fact that the numbers of that corps are now far below what is required for efficiency, it is earnestly recommended that the bill be passed at once.

The honorable the Secretary of the Navy says in his annual report for 1890 that "At present there are not enough engineer officers in the Navy for ordinary working purposes, and if no additional ships were building an enlargement of the corps would be necessary," which statement is emphasized again in the Secretary's report for 1891. Legislation is now pending providing for an increase of the Engineer Corps in accordance with the above-quoted recommendation of the Secretary of the Navy, but to prevent the corps being reduced below its present membership in the meantime, this bill is submitted for the action of Congress.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 441.

FUNDING ACT OF ARIZONA.

FEBRUARY 25, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. SMITH, of Arizona, from the Committee on the Territories, submitted the following

REPORT:

[To accompany H. R 5499.]

The Committee on the Territories, to whom was referred the bill (H. R. 5499) to amend an act of Congress, approved June 25, 1890, approving, with amendments, the Territorial funding act of Arizona, which act was approved by the governor of Arizona on the —— day of ———, 1887, beg leave to report the same with recommendation that it do pass.

The Territorial legislature at its fifteenth session passed what is known as the funding act, which provided for funding the floating debt of the Territory and the counties thereof, and also the municipal and school district indebtedness.

By act of Congress approved June 25, 1890, the said funding act, with certain amendments thereto, was approved. The third paragraph of said act, as passed by the Territorial legislature and approved by said act of Congress, is as follows:

PAR. 2041. (Sec. 3.) Said bonds shall be issued as near as practicable in denominations of one thousand dollars, but bonds of a lower denomination, not less than two hundred and fifty dollars, may be issued when necessary. Said bonds shall bear interest at a rate to be fixed by said loan commissioners, but in no case to exceed five per centum per annum, which interest shall be paid in gold coin, or its equivalent in lawful money of the United States, on the fifteenth day of January in each year, at the office of the Territorial treasurer, or at such bank in the city of New York, in the State of New York, or in the city of San Francisco, in the State of California, or such place as may be designated by said loan commissioners, at the option of the purchaser of said bonds, the place of payment being mentioned in said bonds. The principal of said bonds shall be made payable in lawful money of the United States fifty years after the date of their issue. Said Territory reserves the right to redeem at par any of said bonds, in their numerical order, at any time after twenty years after the date thereof.

The present bill proposes to amend only that paragraph of the act by inserting the words, "The principal of said bonds shall be payable in gold coin or its equivalent," and makes the interest payable semiannually. Since the approval of the said funding act by Congress diligent efforts have been made by the governor of Arizona and others interested in its welfare to sell the bonds therein provided for, but without avail. Your committee is informed that the bonds can be placed at par by the passage of this bill. It is proposed by the loan commission to bond $1,500,000 of indebtedness under this act, and thus save each year to the Territory 5 per cent interest on that amount, being $75,000 annual saving to the people.

The debt proposed to be bonded is now bearing 10 per cent interest

and that enormous rate will still continue if Congress fails to grant the relief provided in this bill.

Arizona has never defaulted in any of her obligations, and it seems to your committee unjust that this economy should be denied. Every debt of the Territory is paid in "gold or its equivalent," and the addition of this provision, while it gives a readier market to the bonds, imposes no hardship on those who pay them.

Therefore your committee recommends the passage of the bill with the following amendments:

Strike out the word "six" in line 10, page 1, and insert the word "five," so as to make the bonds bear 5 per cent per annum interest; and after the words "United States," in line 19, page 2, insert the words "or its equivalent."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 442.

TERMS OF CIRCUIT AND DISTRICT COURTS AT LITTLETON, N. H.

FEBRUARY 25, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. STOCKDALE, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany S. 821.]

The Committee on the Judiciary, to whom was referred Senate bill 821, beg leave to report:

This bill provides for a term of the circuit and district courts of the United States to be held at the town of Littleton in the State of New Hampshire, annually, on the last Tuesday of August. The evidence before the committee discloses the fact that most of the business in the Federal courts comes from the northern part of the State. The courts are now held at Portsmouth and Concord only. The town of Littleton is about 150 miles north of Concord by the line of travel.

In the opinion of the committee a term of the courts should be held in the northern part of the State in justice to the people of that section. The town of Littleton seems to be the choice of the people for the location of the courts.

The committee therefore report back the bill, with the recommendation that it pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 443.

SUBPORT OF ENTRY AT WEST POINT, VA.

FEBRUARY 25, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. WISE, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 4004.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 4004) to establish West Point, Va., a subport of entry and delivery in the collection district of Richmond, Va., have considered the same and report:

West Point, Va., being the terminus of the Richmond and Danville system, and the head of navigation on the York River, is becoming an important point for the shipment of merchandise and the products of the farm to foreign countries.

The object of the proposed legislation is to enable the customs officer stationed at West Point to perform those duties which are now required to be performed at Richmond. The masters of vessels entering the port of West Point are now required to visit Richmond, which is distant 30 miles, to comply with the laws and regulations governing custom-houses. As the proposed legislation would involve no additional expense, and would facilitate the movements of commerce, it is respectfully recommended that the bill be passed, the second section being omitted as suggested in the accompanying letter from the Secretary of the Treasury.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 6, 1892.

SIR: I have the honor to acknowledge the receipt of a communication, dated the 3d instant, from your committee, with which was inclosed for an expression of my views thereon a copy of House bill No. 4004 (to establish West Point, Va., a subport of entry and delivery in the collection district of Richmond, Va.), and in reply to say that inasmuch as a customs officer is now stationed at West Point and that the establishment of that place as a port as proposed would involve no additional expense, there would seem to be no objection thereto. I would suggest, however, that section 2 of the bill, making provision for the salary of the deputy collector to be located at said port, be stricken out.

Respectfully yours,

O. L. SPAULDING,
Acting Secretary.

Hon. GEORGE D. WISE,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 444.

NORTHERN JUDICIAL DISTRICT OF GEORGIA.

FEBRUARY 25, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. RAY, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 6491.]

The Committee on the Judiciary having had under consideration the bill (H. R. 2787) to amend an act entitled "An act to create a new division in the northern judicial district of Georgia," report the accompanying substitute therefor and recommend its passage.

The statute as it now exists is construed to make it compulsory in the judge to continue the term of court for two weeks, whether or not there be business for the court.

We think the continuance of the court should be in the discretion of the judge holding the court, and that it is safe to assume the term will be continued so long as there is business to be done, unless sickness or other disability makes the continuance impossible or impracticable.

The words of the original bill (H. R. 2787) omitted from the substitute seem to be unnecessary.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 445.

AMENDING SECTION 828, REVISED STATUTES.

FEBRUARY 25, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. RAY, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 6492.]

The Committee on the Judiciary, having had under consideration the bill (H. R. 5569) entitled "A bill to amend section 828 of the Revised Statutes of the United States," report as follows:

Your committee recommend the passage of the accompanying substitute.

The purpose is to avoid the necessity of paying large fees, in many cases, for the making and certification of papers in a cause, or necessary to be used in a cause, when the parties in interest and to be affected have in their possession copies thereof and stipulate as to the correctness and authenticity of the same. In many cases it will also avoid the delay incident to sending for or making certified copies.

In many of the State courts, and perhaps all, the parties in interest and to be affected may stipulate that any paper or record is a correct copy or transcript and that it be used, filed, and received in evidence the same as the original, or the same as a copy duly certified by the clerk of the court having the custody therof. No reason is perceived why parties should be put to the expense of procuring a certified copy of a paper or record when already possessed of a copy and agreed as to its correctness.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 446.

TAKING DEPOSITIONS IN CRIMINAL CASES.

FEBRUARY 25, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. POWERS, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 6493.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 3871) entitled "A bill to amend section 878, chapter 17, Revised Statutes," respectfully report that they have considered the same and recommend that the accompanying bill, entitled "A bill providing for the taking of depositions in criminal cases," be passed as a substitute for said H. R. 3871.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 447.

ANNA MARIA YOUNG.

FEBRUARY 25, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1737.]

The Committee on Pensions, to whom was referred the bill (H. R. 1737) granting an increase of pension to Anna Maria Young, have considered the same and report as follows:

The claimant is the widow of Jacob Young, who was a private in the Pennsylvania line and served from January 1, 1777, to August 1, 1780, in the war of the Revolution.

Mrs. Young is now a pensioner at $12 per month under the general laws pensioning the widows of the soldiers of the Revolutionary war. She was married to the soldier in 1832, and her age when she made application for the above pension, on October 2, 1854, was 62 years; hence she is now nearly 100 years old.

The testimony of A. E. Laubach, Jacob Daub, John Brunner, and William J. Murphy, citizens of Easton, Pa., shows that the claimant is so helpless and feeble that she has to be washed, fed, and dressed and otherwise cared for like a child, and that she has no resources aside from her small pension, but is cared for by a grandchild.

In view of the claimant's great age and her dependent and helpless condition, and in view of the further fact that several of the very few surviving Revolutionary war widows have been granted the increase of pension provided by the bill, your committee are of the opinion that the relief prayed for should not be withheld.

The bill is therefore returned with a favorable recommendation.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 448.

MRS. JENNIE Y. WADE.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MARTIN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2073.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2073) granting a pension to Mrs. Jennie Y. Wade, submit the following report:

The claimant herein is the widow of Alfred B. Wade, who was lieutenant-colonel of the Seventy-third Indiana Infantry. The records of the War Department show that the soldier was enrolled August 27, 1862, and honorably discharged July 1, 1865. There is no record of any disability while in the United States service. The soldier was drowned February 27, 1877, never having applied for a pension, and the widow filed her application May 4, 1883, alleging that her husband contracted chronic diarrhea in the United States service, which resulted in vertigo, and while suffering therefrom he fell out of a boat and was drowned. The claim was rejected July 19, 1891, on the ground that the evidence adduced by special examination of the claim failed to connect the soldier's death with any disability contracted in the United States service.

W. E. Gorsuch, Henry C. Morgan, and James R. Eaton, comrades, and Surgeons Charles H. Applegate and Seth F. Myers testify that the soldier contracted chronic diarrhea in the service. A number of witnesses testify that the soldier suffered from vertigo from 1868 to date of his death. One witness testifies also that the soldier suffered from vertigo while he was in the Army, and the existence of this trouble within a short period of his discharge is proved beyond a reasonable doubt. The claim is made that the vertigo was due to the diarrhea. The soldier's death was caused by drowning in the Kankakee River, Indiana, falling overboard from his boat while hunting on that river, and it is claimed that his fall was due to vertigo. There was an intimation shortly after his death that he might have committed suicide, but this theory was not entertained and was abandoned. From a lengthy notice of his death in the South Bend Tribune, March 3, 1877, the following theory of his drowning was advanced, and was borne out by all the surrounding circumstances:

He was seated in one end of his boat eating his dinner and steering the boat with an oar held under his arm. While thus engaged he was seized with one of his dizzy spells, which had troubled him much of late, and falling to one side, careened the boat sufficiently to throw him out in the river; that the water revived him, and he struck out for shore, but failed to reach it, though being an excellent swimmer, on

account of the icy coldness of the water, chilling him into a state of numbness. The end of the boat being filled with water, his hat lying in the opposite end, the dinner pail open, gloves off, and one oar missing, all of which goes to show this theory is the true one.

The following extract from a letter to the Commissioner of Pensions, written by Clement Studebaker, of South Bend, a man of the very highest standing and of unimpeachable veracity, effectually wipes out the theory that the soldier committed suicide:

Mrs. Wade has pension papers awaiting your approval, as I understand it, and I am told that there is some hitch in passing upon them by reason of reports circulated to the effect that Col. Wade's death was due to suicide. This report has never had any foundation in fact, and has never for a moment been credited by those who best knew Col. Wade in life. The exact facts respecting his death must be more or less a mystery, but that its cause was vertigo, to which malady I well knew that Col. Wade was seriously subject, there is every reason to believe. I knew Col. Wade intimately and have never doubted that one of these attacks was the cause of his death. I am also knowing to the fact that this was the belief of Mr. Colfax, who was himself subject to them and well knew their prostrating and dangerous effects from experience, dying, as you are aware, himself finally from vertigo, or some of its phases. Nothing but the wildest improbability could form the basis of a story to the effect that Col. Wade took his own life. He had apparently everything to live for, nothing to make him wish to hasten his end. He was a gallant soldier and an honorable, high-minded citizen.

John Stillwell, special examiner, in his report states:

There can be no doubt but what Col. Wade had vertigo and dizziness in the service. Three credible witnesses testify to that fact. * * * I am of the opinion that the soldier had vertigo in the service and that it was of service origin, and that he died from having a spell of vertigo and falling in the water, and being unconscious, was drowned. The case is a meritorious one and should be admitted."

John W. Clampett, special examiner, who examined all the witnesses at South Bend, in his report says:

After a very careful and as thorough examination as the nature of the claim would permit, following closely the suggestions contained in accompanying slip of reviewer. I am of the opinion that the claim is meritorious and that the soldier died from the results of disease contracted in line of duty in United States military service. It is in evidence that the soldier suffered greatly from chronic diarrhea, which so enfeebled his system that vertigo ensued, beginning about one year after discharge and increasing in severity until death by drowning in February, 1877.

Three reputable physicians declare the vertigo to have been the result of chronic diarrhea. One witness, James R. Eaton, states under oath that he saw the soldier suffer from a slight attack of vertigo while still in the service, and locates the place to have been Nashville, and the time just prior to starting on the "Straight raid." On this raid the soldier, then adjutant of his regiment, was captured, and remained in Libby Prison for ten months before exchange. After exchange he was promoted successively to major, lieutenant-colonel, and colonel of his regiment, although it does not appear that he was ever mustered as colonel. It is in evidence that he suffered continuously with vertigo and that he had a slight attack on the Sunday before his hunting trip, and a severer one a short time previous; also that he complained of vertigo to Dr. Brown at the river-edge before putting off to his boat and was urged by Dr. Brown not to go off alone on this trip. It is also in evidence that he was not permitted generally to go alone on such journeys, and that the last was the exception.

Mr. N. T. Colby, special examiner, in his report says:

The evidence now on file convinces me that the claim is one of merit; that the "spells," whatever they may have been—apoplexy, epilepsy, or heart failure, were the result of an enfeebling disease contracted in his military service, to which no doubt his long imprisonment in Libby Prison at Richmond greatly contributed.

Col. Wade was one of the most distinguised soldiers of Indiana, and all the evidence shows him to have been an honorable, upright, and most excellent gentleman.

o

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 449.

OBE SUTHERLAND.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MARTIN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany S. 1379.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1379) granting a pension to Obe Sutherland, submit the following report:

Your committee, having duly considered said bill, adopt the report of the Senate Committee on Pensions, which is as follows, to wit:

This applicant was a teamster, and his claim was rejected by the Pension Bureau April 8, 1891, on the ground that he was not in the military service.

The testimony shows that while en route from Salt Lake to Fort Bridger, during the winter of 1864–'65, both of his hands and feet were frozen, resulting in the amputation of both of his feet at the instep, and the fingers of both hands.

It seems that this applicant was a slave at the beginning of the war, but he ran away from his owner in 1862, and went with a squad of United States soldiers to Pilot Knob. He states that shortly after this he was examined and received a military uniform and accouterments, and believed that he was a private in some company of the Twenty-fifth Missouri Infantry Volunteers. They drilled him some time, and finally offered him his choice of taking a six-mule team or to go to Gen. Blunt at Fort Scott; he chose the six-mule team, and freighted from Leavenworth to Salt Lake; about midwinter of 1864–'65, while in the Green River Valley, en route between Salt Lake and Fort Bridger, to get military supplies, the train was caught in a snowstorm; the snow became knee-deep, and Sutherland's hands and feet were frozen, with the result above stated.

His present condition is most pitiable. By an operation last winter, rendered necessary by his injuries, some of the bones in his feet were removed. He sleeps on a bed of straw in a barn, and manages to drive a buggy for his board by holding the reins in the stubs of his arms.

The committee believe that the claimant should be pensioned.

And your committee therefore recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 450.

NATHANIEL LANG.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CROSBY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2370.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2370) for the relief of Nathaniel Lang, having considered the same, would recommend the passage of the bill as a measure of relief to a meritorious soldier.

The facts upon which your committee rely for such recommendation are set forth in the report from the Secretary of War, and various affidavits of parties who knew the facts, submitted herewith and made a part of this report. The Committee on Military Affairs reported favorably on a similar bill in the Fiftieth and Fifty-first Congresses.

[General Court-martial Orders, No. 4.]

HEADQUARTERS, ARMY OF THE POTOMAC,
January 20, 1865.

* * * * * * *

V. Before a general court-martial of which Col. E. L. Dana, One hundred and forty-third Pennsylvania Volunteers, is president, convened near Petersburgh, Va., by virtue of General Orders No. 20, from headquarters, Third Division, Fifth Army Corps, of October 31, 1864, was arraigned and tried—

Capt. Nathaniel Lang, One hundred and twenty-first Pennsylvania Volunteers, upon the following charges:

CHARGE 1—Drunkenness on duty.

CHARGE 2—Conduct prejudicial to good order and military discipline.

Finding: Of the first charge, "Guilty."
Of the second charge, "Not guilty."

Sentence—"To be cashiered."

* * * * * * *

IX. The proceedings, findings, and sentences of the general court-martial mentioned in paragraphs * * * V * * * of this order having been approved by the proper commanders, and the records forwarded for the action of the major-general commanding, the following are the orders thereon:

* * * * * * *

The proceedings, findings, and sentences in the case of Capt. Nathaniel Lang, One hundred and twenty-first Pennsylvania Volunteers and * * *, are approved. These officers accordingly cease to belong to the military service of the United States from the date of this order.

By command of Major-General Meade:

S. F. BARSTOW,
Assistant Adjutant-General.

WASHINGTON, D. C., *February* 28, 1865.

SIR: Permit me most respectfully to ask and petition your excellency to reinstate me to my command.

I make no reflections upon the court finding me guilty, but do say it was my first offense. I feel deeply the disgrace, should my sentence remain; and appealing to your kindness of heart, I most earnestly ask that executive clemency and authority may be exercised in my behalf. Permit me to refer you to the officers of my own regiment and those of the One hundred and forty-second Pennsylvania Volunteers. Also to Hon. A. Myers, the member of Congress from the district in which I live, who has known me from childhood.

I am, very respectfully, your obedient servant,

NATHANIEL LANG.

His Excellency ABRAHAM LINCOLN,
President of United States.

CAMP OF THE 121ST REGIMENT PENNSYLVANIA VOLUNTEERS,
Near Petersburgh, Va., January 29, 1865.

SIR: We, the undersigned commissioned officers of the One hundred and twenty first Regiment Pennsylvania Volunteers, believing that a petition from the few survivors of a war-worn regiment would meet with your consideration, beg leave to respectfully solicit your attention to the following facts concerning the case of Nathaniel Lang, late captain of Company F, One hundred and twenty-first Regiment Pennsylvania Volunteers, and as during your much-honored administration clemency has ever marked your course towards the unfortunate, we humbly ask that the said Nathaniel Lang's case may receive your reconsideration, and, if consistent with the interests of the service, that pardon be granted him.

Nathaniel Lang was enrolled August 14, 1862, and mustered into the United States service as a private in Company F, One hundred and twenty-first Regiment Pennsylvania Volunteers, August 29, 1862. He was subsequently appointed first sergeant, and as such was always faithful, performing his duties with marked skill and ability. He was promoted to be a first lieutenant in September, 1863, and to captain of Company F in June, 1864.

As an officer he has, by his sober and upright conduct and gentlemanly deportment, won the esteem of his fellow-officers and the respect of the men under his command. On the 17th of October, 1864, being then in command of the regiment, he was detailed as acting field officer of the day for the division, and was persuaded by some friends of another regiment to partake of a mixed drink. Being totally unused to drinking liquor, the effect was such as to unfit him for the duties of the day, for which offense he was tried by general court-martial and sentenced to be cashiered, this being the first time during his military career that he has been called to account for any misconduct.

We are, sir, very respectfully, your most humble petitioners,

CHARLES BARLOW,
Captain Company H, 121st Regiment Pennsylvania Volunteers.
PHILANDER R. GRAY,
First Lieutenant and Regimental Quartermaster.
D. B. LEVIER,
First Lieut. Company F, and Actg. Adjt. 121st Pennsylvania Volunteers.
GEORGE W. LANSTER,
First Lieutenant, Comdg. Company K, 121st Pennsylvania Volunteers.

His Excellency ABRAHAM LINCOLN,
President of the United States.

CAMP OF THE 142D REGIMENT PENNSYLVANIA VOLUNTEERS,
Near Weldon Railroad, January 31, 1865.

His Excellency ABRAHAM LINCOLN,
President of the United States:

We, the undersigned commissioned officers of the One Hundred and Forty-second Regiment Pennsylvania Volunteers, do hereby respectfully petition that the sentence cashiering Capt. Nathaniel Lang, One hundred twenty-first Regiment Pennsylvania Volunteers, may be rescinded, and that he be reinstated to his former rank for the following reasons:

(1.) He is a brave, loyal, and patriotic officer, and was promoted from the ranks to the command of his company for efficient, energetic, and faithful services since his entry into the Army.

(2.) The cause of his sentence was his first offense. His moral character and his behavior as an officer and a gentleman were, with this one exception, perfectly irreproachable, and we feel perfectly assured that if he were restored to his former rank there would not be the slightest danger of a recurrence of his offense.

(3.) In our opinion his dismissal would be a manifest detriment and injury to the service.

N. H. WARREN, lieutenant-colonel.
C. R. EVANS, captain Company E.
NOAH BOWMAN, captain Company D.
D. S. WILKINS, captain Company B.
J. W. HOWELS, captain Company K.
D. S. TINSMAN, lieutenant, Company B.
ISAAC FRANCIS, jr., first lieutenant, commanding Company H.
J. R. WALTER, first lieutenant, commanding Company C.
JOSIAH LEPLEY, first lieutenant, commanding Company F.
JOHN W. DISSINGER, first lieutenant, commanding Company A.
J. S. KERSTETER, lieutenant, and A. R. Q. M.
W. H. RHODES, first lieutenant, commanding Company I.
H. WARREN STIMSON, adjutant.

[Indorsement.]

His Excellency A. LINCOLN:

I know this officer and most respectfully ask that he may be reinstated. Will you request Judge Holt to report upon the case?

Your obedient servant,

A. MYERS.

MARCH 3, 1865.

[Indorsement.]

Respectfully referred by the President to the Judge-Advocate-General.

J. G. NICOLAY,
Private Secretary.

MARCH 9, 1865.

WAR DEPARTMENT, BUREAU OF MILITARY JUSTICE,
April 21, 1865.

His Excellency the PRESIDENT:

In the case of Nathaniel Lang, late captain One hundred and twenty-first Regiment Pennsylvania Volunteers, the following report is respectfully submitted:

He was tried by court-martial November 2, 1864, on the following charges, viz: (1) Drunkenness on duty. (2) Conduct prejudicial to good order and military discipline; was convicted on the first charge, acquitted of the second, and sentenced to be cashiered.

The specification to the first charge set forth that the accused, on or about the 17th of October, 1864, at or near Yellow House, Va., was drunk while on duty as division field officer of the day of the Third Division, and was brought to his quarters at night in such state of intoxication as to be unable to ride without being held upon his horse.

He plead guilty to the specification and to the charge of drunkenness on duty.

Evidence was given at the trial showing that this was the first time he had ever been in this condition while on duty, and that he had previously borne a good reputation for ability and sobriety.

In view of the facts the members of the court unanimously recommend him to the clemency of the commanding general.

General Crawford, the reviewing authority, approved the proceedings, and in declining to interfere in his behalf remarks a follows, viz:

"The fact that an officer is not an habitual drunkard, or has not similarly offended before, is no palliation for so serious an offense as drunkenness on duty as field officer of the outposts of the command, and of which he has been found distinctly guilty."

The proceedings were also approved by General Meade.

The accused now applies for pardon and restoration to rank and duty.

His previous good character as an officer and his reputation for sobriety are certified to by Surgeon Ramsay, Major Fink, and four other officers of the One hundred and twenty-first Pennsylvania Volunteers, and by Lieutenant-Colonel Warren and by twelve officers of the One hundred and forty-second Pennsylvania Volunteers, all of whom earnestly request executive clemency on his behalf.

Hon. A. Meyers, member of Congress from the State of Pennsylvania, also states that he knows the accused, and respectfully asks that he may be reinstated.

The offense of which he was convicted, by his own confession, was of a very serious character, for which, as stated by General Crawford, the previous good character of the offender furnished no material palliation.

This bureau is therefore constrained to believe that the interests of the service will not permit the exercise of the clemency desired.

J. HOLT,
Judge Advocate-General.

WAR DEPARTMENT,
Washington City, May 3, 1865.

SIR: I am directed by the Secretary of War to acknowledge the receipt, by reference from the President, of your communication of February 28, asking executive clemency in relation to your dismissal from the service, and in reply to say that, upon an examination of the facts of record and submitted by you, it is believed that, an interests of the service will not permit the exercise of the clemency desired.

Very respectfully, your obedient servant,

JAS. A. HARDIE,
Inspector General, U. S. A.

Mr. NATHANIEL LANG,
Late Captain One hundred and twenty-first Pennsylvania Volunteers,
Washington, D. C.

DECLARATION FOR RESTORATION AND HONORABLE DISCHARGE.

Capt. Nathaniel Lang, being sworn, says that he is fifty-two years of age; that he lived from childhood most of his life, till he went into the service, at Shippenville, Clarion County, Pa; that he was always a sober man before, during, and since his Army life; and that he was never in said service intoxicated, or charged with being intoxicated, except as hereinafter mentioned, if that should be so considered; that he is the identical Capt. Nathaniel Lang that was the captain of Company F, One hundred and twenty-first Pennsylvania Volunteer Infantry; that he enlisted about

the 14th day of August, 1862; was orderly sergeant when he went into the service, and was promoted to second lieutenant, then to first lieutenant, then to captain, and commanded his regiment some months; that he was division officer of the day on October 17, 1864; that toward evening of that day his duty took him to or near some regiment headquarters—he can not now tell what regiment. Here he found several officers together. As he met them they were drinking, and invited and urged him to drink with them. He was not in a habit of drinking, nor had he drank anything that day, and at first declined to drink, but finally did drink a small amount of what he then supposed was liquor. He did not stay with them over twenty or thirty minutes, but when he started to mount his horse he was unable to do so, and was assisted to mount. Immediately thereafter he became unconscious, and knew nothing further of what occurred until the next morning; that he was soon after charged with drunkenness on duty, and conduct prejudicial to military discipline; that he plead guilty to, and was found guilty of, the first charge, namely, drunkenness on duty; that he was for the same discharged; that a copy of the court-martial proceedings is hereto attached, marked Exhibit A.

That, as a matter of fact, as he was told next day, he was taken at once to his own quarters in an unconscious condition; and his comrades, including, as he thinks, one of the doctors, rubbed him and worked over him a great portion of the night, and some of them thought he might not recover; that when he became conscious next morning he believed, and has always since believed, that he was drugged in what little he drank.

That when he was charged with drunkenness he had no means that he knew of to show that he had been drugged, and so plead guilty of drunkenness; that within a few years he has learned from correspondence with comrades that he was drugged, or, as the comrade says, "it was a put up job;" that until quite recent years he had no knowledge that he could in any way be relieved from the decision of the court martial; that he has always felt himself greatly wronged in the premises, and now asks to be restored to his rank and honorably discharged as of the day when he left the service. To this end he submits the proof herewith filed.

NATHANIEL LANG.

THE STATE OF OHIO, *Trumbull County, ss:*

Nathaniel Lang, being first duly sworn according to law, says that the statements in his foregoing declaration are true.

NATHANIEL LANG.

Signed in my presence and sworn to before me by Nathaniel Lang in both instances, as above, this 24th day of January, A. D. 1888.

JOHN R. LACHMEN,
[SEAL.] *Deputy Clerk of Probate Court.*

EXHIBIT A.

Proceedings of a General Court Martial, convened near Petersburgh, Va., November 2, 1864, by virtue of the following order:

GENERAL ORDERS No. 20. } HEADQUARTERS THIRD DIVISION FIFTH ARMY CORPS, *October* 31, 1864.

A general court-martial is appointed to meet at these headquarters at 9 o'clock a. m., on Tuesday, November 1, 1864, or as soon thereafter as practicable, for the trial of such persons as may be properly brought before it.

DETAIL FOR THE COURT.

1. Col. E. L. Dana, One hundred and forty-third Pennsylvania Volunteers.
2. Lieut. Col. A. B. Farnham, Sixteenth Maine Volunteers.
3. Maj. H. Richardson, Seventh Wisconsin Volunteers.
4. Capt. D. J. Dickson, Fifty-sixth Pennsylvania Volunteers.
5. Capt. H. M. Jennings, Ninety-fifth New York Volunteers.
6. Capt. H. R. Whiting, Twenty-fourth Michigan Volunteers.
7. First Lieut. M. J. Slocum, Fifty-sixth Pennsylvania Volunteers.

First Lieut. Jas. P. Mead, division commissary of musters, judge advocate.

The court will proceed with and continue the business brought before it without regard to the temporary absence of any of the members, provided the number present does not fall below the minimum prescribed by law.

The above is the greatest number that can be detailed without manifest injury to the service.

By command of Brigadier-General Crawford.

E. C. BAIRD,
Assistant Adjutant General.

HEADQUARTERS COURT-MARTIAL,
Near Petersburgh, Va., November 2, 1864.

The court met pursuant to orders.

Present: (1) Col. E. L. Dana, One hundred and forty-third Pennsylvania Volunteers; (2) Lieut. Col. A. B. Farnham, Sixteenth Maine Volunteers; (3) Maj. H. Richardson, Seventh Wisconsin Volunteers; (4) Capt. D. J. Dickson, Fifty-sixth Pennsylvania Volunteers; (5) Capt. H. R. Whiting, Twenty-fourth Michigan Volunteers; (6) Capt. H. M. Jennings, Ninety-fifth New York Volunteers; (7) First Lieut. M. J. Slocum, Fifty-sixth Pennsylvania Volunteers; First Lieut. James P. Mead, division commissary of muster, judge advocate.

The court then proceeded with the trial of Capt. Nathaniel Lang, One hundred and twenty-first Pennsylvania Volunteers, who being called into court and having heard the order convening the court read was asked if he objected to any of the members named therein, to which he replied in the negative.

The court was then duly sworn by the judge-advocate and the judge-advocate was duly sworn by the presiding officer in the presence of the accused, and Capt. Nathaniel Lang, One hundred and twenty-first Pennsylvania Volunteers, was arraigned for trial on the following charges and specifications:

CHARGE 1.—Drunkenness on duty.

Specification 1: In this, that Capt. Nathaniel Lang, One hundred and twenty-first Pennsylvania Volunteers, on or about the 17th day of October, 1864, at or near Yellow House, Virginia, was drunk while on duty as division field officer of the day of the third division, and was brought to his quarters at night in a state of intoxication and unable to ride without being held upon his horse.

CHARGE 2.—Conduct prejudicial to good order and military discipline.

Specification 2: In this, that Capt. Nathaniel Lang, One hundred and twenty-first Pennsylvania Volunteers, being division field officer of the day, did become grossly drunk and remained under the influence of liquor next day, making him unfit to command his regiment and unable to act as instructor to the officers of the regiment at the time specified for school hours in the brigade.

All this on or about the 17th and 18th days of October, 1864, at or near Yellow House, Virginia.

To which charges and specifications the accused pleaded as follows:

To the specification of first charge, "guilty."

To the first charge, "guilty."

To the specification of second charge, "not guilty."

To the second charge, "not guilty."

Capt. Charles L. Allen, of the One hundred and twenty-first Pennsylvania Volunteers, a witness for the prosecution, being duly sworn, says:

Q. (By judge-advocate.) The accused is charged with conduct prejudicial to good order and military discipline, and being unable to command his regiment on the 18th of October, 1864, from intoxication. State to the court your knowledge of the facts.—A. On the evening of the 17th day of October, 1864, the accused was brought into camp in a state of intoxication, so much so that it was impossible for him to walk. He was carried by two men to his quarters, where he remained during the night. The school of instruction for officers was held by Captain Barlow, the next in command. Captain Lang was at the time in command of the regiment. On the 19th instant the accused was on duty as field officer of the day. I saw the accused about 5 o'clock on the afternoon of the 18th instant; he was not intoxicated then.

Q. (By accused.) Was you present at the school of instruction on the 18th?—A. I believe I was.

J. Allen Ramsey, surgeon of the One hundred and twenty-first Pennsylvania Volunteers, a witness for prosecution, being duly sworn, says:

Q. (By judge-advocate.) The accused is charged with conduct prejudicial to good order and military discipline in being unable to command his regiment on the 18th of October, 1864, from intoxication. State to the court your knowledge of the facts.—A. The accused had been very much intoxicated on the evening of the 17th of October, and had not become sober till some time during the 18th. There was no school of instruction during the day. If there had been one I should judge he was in a condition to act as instructor. He complained of being ill from the effects of his previous intoxication, but was not intoxicated at 1.30 o'clock, the hour for holding the school.

Q. (By accused.) What time did I come to my quarters on the morning of the 18th?—A. About 9.30 a. m.

Q. (By accused.) What is my general character for sobriety?—A. I have known the accused since he has been in the service, since August 29, 1862. I have never known him to be intoxicated before while on duty. Sometimes when in winter quarters he has become a little lively, but I always looked on him as a sober man.

Q. (By court.) State whether his intoxication, of which you speak, on the 18th, was the remainder of the previous day's debauch or whether he continued it by drinking also on the 18th?—A. I did not know of his drinking on the 18th. In my opinion it was the remains of the previous day's debauch.

The prosecution here rested, and the accused offered the following evidence in his defense:

Capt. Charles Barlow, of the One hundred and twenty-first Pennsylvania Volunteers, a witness for the defense, being duly sworn, says:

Q. (By accused.) State to the court my condition as to sobriety on the 18th of October, 1864.—A. I saw him at the hours of 10, 11, and 12 a m., and 4 p. m. during the day; he was sober then. I did not see him drunk at all during the day.

Assistant Surgeon F. F. Davis, One hundred and twenty-first Regiment Pennsylvania Volunteers, a witness for the defense, being duly sworn, says:

Q. (By accused.) State my condition as to sobriety on the 18th of October, 1864.—A. I saw him at intervals during the day or afternoon of the 18th; he was sober when I saw him. I did not see him drink anything at all during the day.

The accused having no further evidence to offer in his defense made the following statement:

"On the morning of the 18th I was able and willing to hold school but was ordered by Dr. Ramsey not to do so and did not."

The accused having no further statement to make the court was here closed, and after having maturely weighed and considered the evidence, adduced do find the accused as follows:

Of the specification, first charge, the court confirms the plea of the accused and find him "guilty."

Of the first charge the court confirms the plea of the accused and find him "guilty."

Of the specification, second charge, the court finds the accused "not guilty."

Of the second charge the court finds the accused "not guilty."

And the court do therefore sentence him, Capt. Nathaniel Lang, of the One hundred and twenty-first Regiment Pennsylvania Volunteers, to be cashiered.

EDM'D L. DANA,
Colonel One hundred and forty-third Pennsylvania Volunteers, President.

JAMES P. MEADE,
First Lieut., Judge-Advocate.

RECOMMENDATION OF THE COURT.

In consideration of the facts that Capt. Nathaniel Lang, Company F, One hundred and twenty-first Pennsylvania Volunteers, has always borne a good reputation, not only for ability to command but also for sobriety, that this is the first instance in which he has so offended, we, the undersigned officers composing the court before which Captain Lang was tried, ask that the clemency of the commanding general be exercised in this case.

EDM'D L. DANA,
Colonel One hundred and forty-third Pennsylvania Volunteers.
A. B. FARNHAM,
Lieutenant-Colonel Sixteenth Maine Volunteers.
H. RICHARDSON,
Major Seventh Wisconsin Veteran Volunteers.
H. M. JENNING,
Captain, Ninety-fifth New York State Volunteers.
D. J. DICKSON,
Captain, Fifty-sixth Pennsylvania Veteran Volunteers.
H. REES WHITING,
Captain, Company E, Twenty-fourth Michigan Volunteers.
M. J. SLOCUM,
First Lieutenant, Fifty-sixth Pennsylvania Volunteers.

HEADQUARTERS THIRD DIVISION FIFTH ARMY CORPS,
December 29, 1864.

The proceedings, finding, and sentence in this case are approved. In regard to the recommendation of clemency made by the court the general commanding regrets that he can not agree with the court. The fact that an officer is not an habitual

drunkard or has not similarly offended before is no palliation for so serious an offense as drunkenness on duty as field officer of the outposts of the command and of which he has been found distinctly guilty.

S. W. CRAWFORD,
Brevet Major-General Commanding Division.

HEADQUARTERS ARMY OF THE POTOMAC,
January 20, 1865.

Approved.

GEO. E. MEADE,
Major-General Commanding.

Official copy.

D. G. SWAIM,
Judge-Advocate General.

1307 WALNUT STREET,
Philadelphia, February 24, 1888.

MY DEAR CAPTAIN: I have a clear recollection of Lang, when a sergeant of his company, as an active, intelligent, meritorious man, and believe his promotion to the position of a commissioned officer was upon my recommendation, a step I would not have taken had there been any one else in his company more deserving. I do not know that I can say anything more than this, as my term of service ended in the early part of 1864 and I have no knowledge of subsequent affairs in which he may have found temptations too great for him.

I have put this in the letter form you speak of.

Yours, etc.,

A. BIDDLE.

Captain CLAPP.

In the matter of the petition of N. F. Lang to be restored to his commission as captain Company F, One hundred and twenty-first Pennsylvania Volunteers.

Richard S. Shute, being duly sworn, says: I live at No. 1832 Camac street, Philadelphia. I was lieutenant of Company H and acting adjutant of the One hundred and twenty-first Pennsylvania Volunteers in the winter of 1864–'65, when Captain Lang was dismissed the service. He was at that time in command of the regiment After the war I was informed by the officers of a New York regiment that they had "set up" a job to have Lang dismissed; that when he was officer of the picket, while the army was guarding the Welden Railroad they (being on duty on the picket line) induced Lang to drink; so they told me. He was not a drinking man, and I never knew him to be under the influence of liquor then or at any time. The weather was very severe, and Lang, having been overpersuaded by these officers, was induced to drink and was easily overcome. It was on his return to camp that he was seen in this condition, and having been reported, charges were preferred against him, and he was subsequently tried, found guilty, and sentenced to be dismissed, and thus lost his commission. If I can ascertain the names and addresses of the New York officers who gave me this information I will do so. I think that Lang was severely punished for his first and only offense.

RICHARD S. SHUTE,
Late Capt. Company H, One Hundred and Twenty-first Regiment Pennsylvania Volunteers.

Sworn and subscribed to before me this 6th day of December, A. D. 1886.
[SEAL.] H. S. PRENTISS NICHOLS,
Notary Public.

In the matter of the petition of Captain Lang, late captain Company F, One hundred and twenty-first Pennsylvania Volunteers.

The undersigned officers and soldiers of the One hundred and twenty-first Pennsylvania Volunteers have read the foregoing affidavit of Richard S. Shute, and declare that the facts therein set forth are true, and in their opinion right and justice would be done by relieving Captain Lang from the punishment under which he has so long

suffered, by restoring him to his commission and thus atoning for a great and unfortunate result of an unintentional offense. The undersigned heartily second the petition of Captain Lang, and attest the correctness of the statement made by Lieutenant Shute:

Samuel Arrison, Captain K, One Hundred and Twenty-first Regiment.
William W. Strong, late Captain Company E, One hundred and twenty-first Pennsylvania Volunteers.
John Galbraith, Private Company D, One Hundred and Twenty-first Pennsylvania Volunteers.
Robert Moffat, Sergeant K Company, One Hundred and Twenty-first Pennsylvania Volunteers.
Edward D. Knight, Orderly Sergeant Company K, One Hundred and Twenty-first Pennsylvania Volunteers.
James D. Curry, Company G, Sergeant.
Chas. B. Duncan, Company D.
B. V. Markward, Company B.
A. C. Matthews, Company H, One Hundred and Twenty-first.
Albert Miles, Company H, One Hundred and Twenty-first.
Comly S. Robinson, Company G, One Hundred and Twenty-first Pennsylvania Volunteers.
Robert Johnston, G, One Hundred and Twenty-first Pennsylvania Volunteers.
George S. DeDier, Company C, One Hundred and Twenty-first Pennsylvania Volunteers.
Malcom Murray, Company I, One Hundred and Twenty-first Pennsylvania Volunteers.
Jacob Latch, Company I, One Hundred and Twenty-first Pennsylvania Volunteers.
Lewis Clappe, Company C.
Thos. F. Clarke, Company B.
Wm. D. Baldwin, Company I.
John B. Wilson, Company I.
H——— Alviniss, Company I.
William G. Pendleton, Company E.
W. W. Bradley, Company H.
Samuel T. Plum, Company C.
John Cromie, Company I.
Thomas Simpson, Company I.
John Kettle, Company I.
James Sullivan, Company K.
Charles L. Atlee, Company C.
Davis R. Shaw, Company H.
C. H. WinRuorst, First Sergeant Company K.

SOUTH OIL CITY, PA., *February* 7, 1888.

To whom it may concern:

This certifies that from September 9, 1863, till the close of the war, *i. e.*, June 2, 1865, I was assistant surgeon of the One hundred and twenty-first Regiment Pennsylvania Volunteers, and well acquainted with Lieut. Nathaniel Lang, of Company F, One hundred and twenty-first Pennsylvania Volunteers. It seems to me that Lieutenant Lang was during his term of service commissioned captain of Company F. I remember the manner and time of his dismissal from the United States service, which occurred in the fall of 1864, near Yellow House, Va. The captain was officer of the day, and was brought home in a stupefied condition; he was brought home on a horse. He remained in such condition during the evening and on into the night. Subsequently he was placed in arrest and tried by a court-martial and dismissed the service. I thought at the time that the charge of drunkenness on duty (the charge against him) was but poorly sustained, inasmuch as he had more the appearance of a very sick man than one drunk, and I advised him to fight the charges all he could, but he seemed overwhelmed with shame, and I afterward heard that he not only made no defense, but admitted that he was drunk.

Captain Lang had always borne a good reputation in the regiment for sobriety, honesty, and as a good soldier, having been promoted from the ranks for gallantry and general soldierly bearing. I never knew him to drink anything either before or after the occurrence named, and never even heard it hinted at that he was a drinking man. Indeed I have frequently heard the colonel, Chapman Biddle, speak of him in terms of commendation for his good qualities. I believed at that time and do be-

lieve now that whatever Captain Lang drank that day, which I understood then was *wine*, was drugged, and I also believe that had he defended his case properly he would have been acquitted by the court-martial before which he was tried.

I have heard it stated in the regiment that there was a difference between him and some officers in and out of the regiment and that they had fixed up a job on him, but of the nature of such job, if any, I know nothing.

F. F. DAVIS, M. D.,
Late Assistant Surgeon One Hundred and Twenty-first Pennsylvania Volunteers.

Sworn and subscribed to before me this 7 day of February, 1888.
[SEAL.] I. HOLLOWAY,
Justice of the Peace in and for Venango County, Pa.

PHILADELPHIA, *February* 25, 1888.

DEAR CAPTAIN: Referring to your letter of the 20th instant: As I was taken prisoner October 1, 1864, and was not returned to the regiment for several months, I, of course, can not say of my own knowledge what the merits of the particular case against Capt. Nathaniel Lang were prior to October 1, 1864. However, so far as my recollection goes, his connection with the regiment was in every way honorable either as an enlisted man or as a commissioned officer. I certainly have no recollection of ever seeing him intoxicated or under the influence of liquor. I would like very much to see him restored to good standing.

Very truly, yours,

W. W. STRONG,
Late Captain Company E, One Hundred and Twenty-first Regiment Pennsylvania Volunteers.

Capt. J. M. CLAPP, *Washington, D. C.*

Before me, a notary publicin and for the county of Philadelphia, personally appeared W. W. Strong, who, being by me duly sworn, deposed and said that the above statement is true to the best of his knowledge and belief.

[SEAL.] FRANK D. HOWELL,
Notary Public.

FEBRUARY 25, A. D. 1888.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 451.

WILLIAM W. WEBB.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CROSBY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 3526.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3526) for the relief of William W. Webb, having considered the same, have adopted the report made by the Committee on Military Affairs in the Fifty-first Congress on a similar bill, and recommend the passage of the bill.

House Report No. 3080, Fifty-first Congress, first session.

Mr. OSBORNE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 4725.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4725) for the relief of William W. Webb, having considered the same, have adopted the report made by your committee in the Forty-eighth Congress on a similar bill, and recommend the passage of the bill, the former report being as follows:

[House Report, No. 289, Forty-eighth Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1093) for the relief of William W. Webb, have duly considered the same and report as follows:

Substantially the same bill was before the last Congress, and with amendments, which made it conform to the present bill, was favorably reported from the Committee on Military Affairs; and as that report gives the facts in the case, the committee adopt the report of that committee in so far as it is applicable to the present bill. That report is as follows, to wit:

[House Report No. 706, Forty-seventh Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1183) for the relief of William W. Webb, having considered the same, respectfully report:

That Captain Webb was appointed second lieutenant First Cavalry May 17, 1861; changed to Fourth Cavalry August 3, 1861; promoted to first lieutenant July 17, 1862, and to captain Fourth Cavalry July 28, 1866; brevetted major March 2, 1867, "for gallant and meritorious services in the Atlanta campaign."

That while serving in the line of his duty in Texas, about the year 1867, he contracted an inflammation of the eyes, which so seriously affected and impaired his vision, and so obstinately resisted any medical treatment there obtainable, that he was compelled to seek leave of absence, with the hope of securing such skilled professional treatment as would effect a cure.

The following certificate of Surgeon Basil Norris, United States Army, describes his condition in March, 1871:

WASHINGTON, D. C., *March* 4, 1871.

Capt. W. W. Webb, Fourth United States Cavalry, having applied to me for a certificate on which to ground an application for leave of absence, I hereby certify that I have carefully examined this officer, and find him suffering from ophthalmia and granulations of the upper lids of both eyes, for which he has been under treatment from time to time during the last three years. He will not, in my opinion, be fit for duty in a less period than six months. Leave of absence is respectfully recommended, to afford him opportunity for obtaining the best means of complete and permanent cure.

BASIL NORRIS,
Surgeon, U. S. Army.

WASHINGTON, D. C., *February* 4, 1882.

A true copy.

BASIL NORRIS,
Surgeon, U. S. Army.

Although the difficulty was somewhat alleviated and temporarily improved by the skilled treatment he obtained during his leave of absence in 1871, and he rejoined his regiment in Texas at the expiration of his sick leave, Captain Webb was, and continued to be, disqualified for active military service by reason of said disease of his eyes and the consequent weakness and dimness of his sight, and at and prior to the time of his resignation, hereinafter referred to, was undoubtedly entitled to be retired with his said rank Ambitious, however, and more hopeful concerning his disability than circumstances warranted, he continued in the service until satisfied that his condition disqualified him therefor, but believing that further treatment by a skilled occulist, if persevered in, would effect a cure, and that meanwhile he could fill and perform the duties of a clerkship which had been offered to him, Captain Webb, on the 1st of May, 1873, resigned from the Army and entered upon the duties of the position tendered him.

Your committee are satisfied that Captain Webb faithfully endeavored to perform the duties of the position in civil life upon which he entered, but that, deriving no benefit or permanent improvement from any treatment, he was compelled to relinquish that position also, and finds that the disease of his eyes continues with increased rather than diminished severity, and that his disability therefrom is quite equal to what it was at the time of his resignation.

Your committee annex the certificate of Dr. Norris as to the present condition of Captain Webb, together with other certificates, affidavits, etc., concerning this case, as follows, viz:

1733 G STREET, WASHINGTON, D. C.,
February 4, 1882.

I certify that Capt. W. W. Webb, formerly Fourth United States Cavalry, suffers from the effects of protracted granular inflammation of the eyelids of both eyes, viz, oversensitiveness of the cornea, with predisposition to inflammation of the cornea and to ophthalmia.

BASIL NORRIS,
Surgeon, U. S. A.

FORT DAVIS, TEXAS,
February 13, 1882.

I hereby certify on honor that I have been personally acquainted with W. W. Webb, late captain Fourth United States Cavalry and brevet major, United States Army, for fourteen years, and that I have personally known that during that time his eye-sight was very defective; and further, that I always understood that the impaired condition of his eye-sight was the result of a severe illness contracted in the South during the war of the rebellion, and that said illness was contracted in the line of duty. A part of 1869 and 1870 I served under the said Capt. W. W. Webb, at Jefferson, Tex. as second lieutenant of his company, E, Fourth United States Cavalry. On the 1st day of January, 1872, I was appointed regimental adjutant Fourth United States Cavalry, and was stationed at Fort Richardson, Tex, and that Capt. W. W. Webb, was stationed at the same post with his company until he went on leave of absence preparatory to resigning; that I had excellent opportunity to observe his official acts and conduct on account of my regimental staff position, and being intimately acquainted with him personally had equally good opportunity for observing his moral and personal acts and deportment, and that I unhesitatingly certify that the said Captain Webb was regarded as one of the most capable captains in the regiment. I further certify that during the winter of 1880-'81, that is, from about the 22d day of December, 1880, to the 16th day of May, 1881, I was in Florida, and that during that time I saw the said Captain Webb every day, excepting a period of about one week, and that the condition of his eye-sight was apparently the same as when he resigned from the Army. I also certify that in the year 1871 the said Captain Webb was on leave of absence for about six months, and on sick leave on account of his eyes. This last is only known to me in the general way in which all officers of a regiment, who are on duty with that regiment, know when an officer is on sick leave, the leave itself, or rather the certificate for leave, being usually seen only by those who are required to act officially in such cases.

I further certify that to the best of my knowledge and belief his disability has been incurred in the faithful performance of his duty in the Army of his country.

LEO. O. PARKER,
Captain, First Infantry, late Captain Fourth United States Cavalry.

WASHINGTON, D. C., *February* 6, 1882.

The Chairman and Members of the House Military Committee:

GENTLEMEN: I understand Maj. W. W. Webb is an applicant before your committee for restoration and retirement in the Army of the United States, which I trust through your influence will be granted by Congress, for the following reasons:

While I was supervisor of internal revenue, in 1869 and 1870, in the State of Texas, I often had official relations with Major Webb, and as often found him prompt and ready to assist me in every possible way in the discharge of my official duties with troops and otherwise.

I very well remember he was suffering then from malady of the eyes to such an extent as, upon one or more occasions, to require the services of an amanuensis in the discharge of his official duties.

His military record in the Regular Army during his entire service—over twelve years—as an able and efficient officer, is unquestioned.

Trusting that his request may be complied with,

I have the honor to be, very respectfully, your obedient servant,

J. A. BRIDGLAND.

PRESIDENT'S ROOM, CORNELL UNIVERSITY,
Ithaca, New York, February 7, 1882.

The CHAIRMAN COMMITTEE ON MILITARY AFFAIRS:

SIR: In regard to the application of Major Webb, now before your committee, permit me to state that I have known him for many years as a man of honesty and integrity, faithful in the discharge of every duty intrusted to him.

My acquaintance began with him while he was still in the Army of the United States. It is also within my personal knowledge that the disability under which he at present labors was contracted in the discharge of his duty to the United States; that on this account he left the service and endeavored to obtain a living without assistance from the Government, and that the struggle he has made ever since that time to do so has been in every way creditable to him.

It is also known to me that this same difficulty, on account of which he left the Army, has prevented his success in vocations requiring much use of his eyes, and that in consequence he was obliged to give up a position as book-keeper, and to embark in agricultural pursuits. Permit me also to express the opinion that my acquaintance with the case satisfies me that it is one where your committee might well intervene in behalf of a man of real merit, disabled in the service of the United States, who has labored faithfully both in military and civil life to discharge his duty.

I am, sir, very respectfully, yours,

ANDREW D. WHITE.

WASHINGTON, D. C., *February* 4, 1882.

I hereby certify that I am treasurer and general manager of the Porter Manufacturing Company, limited, a company largely engaged in the manufacture of boilers and engines in the city of Syracuse, county of Onondaga, State of New York; that I have been connected with said establishment many years.

That in 1871 I became personally known to Maj. W. W. Webb, though knowing him by correspondence and reputation for years prior thereto.

That Major Webb was then on a six months' leave from his regiment on the Texan frontier for the purpose of getting skilled treatment for his eyes; that I made him an offer to enter our establishment at any time his eye-sight was in proper condition to warrant it.

That in May, 1873, he resigned from the Army and accepted above position; that the duties pertaining thereto, however, proved too great a tax on his impaired vision, and he left our service, being totally incapacitated for any labor requiring close attention.

That he went to Florida and engaged in agricultural pursuits, where he still resides.

GEORGE A. PORTER.

Subscribed and sworn to before me this 6th day of February, 1882.

WILLIAM P. YOUNG,
Notary Public.

The Chairman and Members of the Committee on Military Affairs:

GENTLEMEN: Understanding that Bvt. Maj. W. W. Webb, late captain of Fourth United States Cavalry, has applied for restoration and retirement, I beg leave to urge upon you a favorable report in this most worthy application.

I have known Major Webb, personally, since 1861, at which time we were both officers in the Fourth United States Cavalry He served through the war, and subsequently for eight years on the frontier. I know particular of his services during the Atlanta campaign, when he commanded a battalion of his regiment, and led it on many occasions with such gallantry as to attract the notice of all. As an active participant in the numerous engagements, especially at New Hope Church, Rome, and Lawrenceville, Ga., he was recommended by the regimental and division commander for two brevets for gallantry in said actions.

Believing that so deserving an application will receive favorable consideration,

I have the honor to be, very respectfully, your obedient servant,

E. M. MCCOOK,
Late Bvt. Maj. Gen. Vols.

WASHINGTON, *February* 11, 1882.

In consideration of all the facts and circumstances, and believing that this officer, when entitled to be placed upon the retired list, resigned his said captaincy with the laudable motive of earning his own livelihood in civil life, and acting therein in good faith, but misapprehending the permanence of his disability, your committee recommend that the accompanying bill be amended as follows:

By striking out from lines *six, seven* and *eight* of said bill the words, "and retire him with the rank to which he would have attained in the service at the date of the passage of this act, or, if he shall deem it best, to restore," and by striking out from line *ten* the words, "and to date therefrom;" and by adding, at the end of said bill, the words, "*Provided, however,* That the retirement of said officer shall be in addition to the number now authorized by law;" and your committee recommend the passage of said bill with said amendments.

In addition to the foregoing report, the committee append the surgeon's certificate of A. J. Wakefield, M. D., dated November 24, 1883; also, letters of Senator Wilkinson Call and General W. T. Sherman, as follows:

JACKSONVILLE, FLA., *November* 24, 1883.

This is to certify that I have examined Capt. and Bvt. Maj. William W. Webb, late of Fourth United States Cavalry, and find him suffering from chronic ophthalmia and granulated eye-lids, contracted while in the service of the United States. Both eyes are very much impaired, so much so that he is obliged to wear No. 5 glasses and can distinguish nothing without them. His sufferings have been great, and any aggravation of the disease might leave him totally blind.

Respectfully,

A. J WAKEFIELD, M. D.
Late Acting Assistant Surgeon, U. S. Army, Pension Examiner.

UNITED STATES SENATE,
Washington, D. C., February 5, 1884.

DEAR SIR: Maj. W. W. Webb, late of the U. S. A., who has a bill before your committee, is a much respected citizen of Florida. I send you a letter from General Sherman, in whose command he was, which may be of value to the passage of the bill. Major Webb is a man of high character and much esteemed. If you think the letter will be of service in showing the appreciation in which he was held, I will be obliged to you if you will use it.

Yours,

WILKINSON CALL.

Hon. W. S. ROSECRANS,
House of Representatives.

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912 GARRISON AVENUE,
St. Louis, Mo., February 2, 1884.

MY DEAR SIR: I have your valued favor of the 30th ultimo, and can recall the case of Major Webb only from the testimony and statements of others.

This kind of testimony will be of little use to him in a pension case. I have no doubt of his merits as a soldier, and trust the testimony submitted in the printed report sent me by you will be all sufficient.

With great respect, your friend,

W. T. SHERMAN.

Hon. WILKINSON CALL,
United States Senate, Washington, D. C.

Considering that this officer was disabled in the service of the country and in the line of his duty; that instead of holding to his rank in the Army when he was incapable of rendering service, he resigned for the purpose and in the hope of regaining his sight from the disease contracted in the line of his duty; that he has wholly failed to do so, we do not think he should be in worse case than if he had consented to be a burden on the Government with the full rank and pay of captain, and the committee therefore recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 452.

DELOS CRAMER.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ROCKWELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 793.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 793) to amend the military record of Delos Cramer, respectfully submit the following report:

Delos Cramer enlisted May 17, 1861, as a private in Company F, Fourteenth New York Volunteers, to serve for the term of two years. He was a brave and faithful man and soldier; was early promoted to be first lieutenant, and so continued until within about two months of the end of the period of his enlistment, about which time some visitors from the Ninety-seventh New York Regiment, raised in the neighborhood of his home, visited the boys of the Fourteenth Regiment, and some of them becoming convivial and were making considerable noise when Lieut. Cramer joined them. The jollification attracted the attention of Col. Davis, passing by, who asked the boys to make less noise, when one John Manchester, one of the visiting boys of the Ninety-seventh Regiment, said: "Go to hell, you son of a gun."

Col. Davis charged the utterance of these words upon Lieut. Cramer, substituting for the word "gun" a more offensive word, and upon this charge Lieut. Cramer was court-martialed and convicted of being drunk and disorderly and of speaking the offensive words imputed to him. Cramer was a man so loyal to his friend that he would rather suffer wrong than betray him, and he therefore plead not guilty, but made no defense.

After the close of the war proofs were submitted to the War Department showing that Cramer was not the person who had used the words imputed to him, but the Department held that as Cramer was also convicted of being drunk and disorderly, the conviction would not be disturbed. It is believed that sentence of dishonorable dismissal from the service would not have followed a conviction upon the sole charge of being drunk and disorderly, and as the proofs presented entirely exonerate Lieut. Cramer from the graver offense imputed to him, his record should be amended and an honorable discharge be granted him.

Your committee have reported an amendment to the bill proposed, by striking out all after the word "Volunteers," in line 6, and by adding at the end thereof the words, "and to issue to said Cramer an honorable discharge," and as so amended recommend that the bill do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 453.

HENRY A. READ.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ROCKWELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. Res. 54.]

The Committee on Military Affairs, to whom was referred the resolution (H. Res. 54) for the relief of Henry A. Read, have duly considered the same and submit the following report:

The facts in the case are fully embraced in the record evidence from the office of the Adjutant-General, submitted herewith, which shows this to be a case of injustice done by a court-martial, not having all the facts before them at the time of their finding, and thereby an imputation of wrong has been allowed to stand against the name of a brave and efficient officer which your committee believe should be righted by legislative action.

The bill seems most meritorious and your committee recommend that the same do pass.

CASE OF HENRY A. READ, LATE OF NINETY-NINTH PENNSYLVANIA VOLUNTEERS.

RECORD AND PENSION DIVISION,
March 17, 1890.

The records show that Henry A. Read was mustered in as captain Company G, Ninety-ninth Pennsylvania Volunteers, October 25, 1861; as major, same regiment, to date March 11, 1862, and was dismissed the service February 19, 1863, in orders, of which the following is a copy:

GENERAL ORDERS, No. 14. } HEADQUARTERS ARMY OF THE POTOMAC,
Camp near Falmouth, Va., February 19, 1863.

I. Before a general-court-martial, of which Lieutenant-Colonel F. F. Cavada, One hundred and fourteenth Regiment Pennsylvania Volunteers, is president, convened at the headquarters Second Brigade, Birney's division, by virtue of General Orders, No. 3, from the headquarters First Division, Third Corps, of November 19th, 1862, was arraigned and tried Major Henry A. Read, Ninety-ninth Pennsylvania Volunteers, on the following charges and specifications:

CHARGE 1.—*Absence without leave.*

Specification.—In this, that Major Henry A. Read, Ninety-ninth Regiment Pennsylvania Volunteers, having received on the 24th day of August, 1862, near Warrenton, Va., a certificate from Dr. N. T. W. Dickerson, surgeon Ninety-ninth Regiment Pennsylvania Volunteers (then acting brigade surgeon of Berry's brigade), directing him to report at the nearest general hospital, did fail so to report and proceeded to Philadelphia, and did so remain absent until the 10th day of September, 1862. This on the march, near Warrenton Junction to Fairfax Seminary, Va., from the 24th day of August to September 10th, 1862.

CHARGE 2.—*Breach of arrest.*

Specification.—In this, that Major Henry A. Read, Ninety-ninth Regiment Pennsylvania Volunteers, having been placed in arrest by order of Brigadier-General Birney, did, on or about the 24th day of October, 1862, break his arrest by leaving his quarters and regiment without permission, and did so remain absent from his quarters and regiment until the 27th day of November, 1862. This at White's Ford, Va., on or about the 29th day of October, 1862.

To all of which charges and specifications the accused pleaded "Not guilty."

The court, after mature deliberation on the testimony adduced, do find the accused as follows:

Of the specification, first charge, guilty; of the first charge, guilty.

Of the specification, second charge, guilty; of the second charge, guilty.

And the court do therefore sentence the said Major Henry A. Read, Ninety-ninth Regiment Pennsylvania Volunteers, "To be dismissed the service of the United States."

* * * * * * *

IV. The proceedings, findings, and sentence of the court in the cases of Major Henry A. Read, Ninety-ninth Regiment Pennsylvania Volunteers, * * * are approved and confirmed. Those officers, accordingly, cease to belong to the military service of the United States from this date.

* * * * * * *

By command of Major-General Hooker:

S. WILLIAMS,
Assistant Adjutant-General.

In a communication dated August 28, 1863, Col. Asher S. Leidy, commanding the Ninety-ninth Pennsylvania Volunteers, called attention to the case of Major Read, and requested the modification of the sentence of the court, so as to enable him to reenter the service. This was referred to the Judge-Advocate-General of the Army for review, and under date of September 29, 1863, was returned by that officer to the Secretary of War with the following report:

"This officer was dismissed for an 'absence without leave,' and a 'breach of arrest.'

"The testimony found in the record upon both of these charges is very light, and consists almost entirely of statements purporting to have been made by the accused himself.

"The facts in reference to the first charge appear to be as follows: On August 24, 1862, when the regiment was on the march towards Alexandria, the accused, being very ill with diarrhea, obtained from the brigade surgeon a written permission to go to the nearest general hospital on account of inability to do duty, proceeding from this disease and general 'exhaustion.' There is no evidence as to what was done by the accused, by virtue of this permission, except what appears in the testimony of Colonel Leidy, commanding the regiment. This officer says that the accused informed him on his return to the effect that pursuant to this permission he did report to a general hospital, but found that there was no chance of his being properly attended to there, and that he thereupon proceeded to Philadelphia, where he resided, for proper medical treatment.

"Colonel Leidy adds that when the accused left the regiment he was unfit for duty; and even on his return, which was on September 10 following, he was 'still suffering with chronic diarrhea and quite exhausted and debilitated.' It appears, further, by medical certificates now filed by the accused, but not produced on the trial, that when at Philadelphia he was regularly under the charge and treatment of Surgeon Goddard, U. S. Army, at General Hospital; and it is shown by similar evidence that the accused was on September 6 pronounced by this surgeon as recovered, and formally permitted to return to his regiment.

"It thus appears that though the accused had no proper technical authority for proceeding beyond Alexandria, yet that at the station to which he *did* proceed, he was under the care and charge of a proper medical officer at the head of a U. S. Army general hospital, who formally discharged him and instructed him to report back to his regiment. Moreover, the statement made by the accused that he was unable to obtain proper medical treatment at Alexandria, was no doubt true. It is believed that at the period in question there were great difficulties in the way of officers who desired to obtain proper surgical care at the hospitals at or near Washington; and that a considerable number of officers, who were at this time ill and unfit for duty, left Washing for their homes (where they could in fact be best treated), without formal authority but by the consent and advice of their surgeons.

"Of the charge of 'breach of arrest' there is no proof whatever except what

may be found in the statement of the accused made to his colonel and repeated by the latter in his testimony. And this repeated statement is simply to the effect that the accused left his regiment while in arrest; for when the witness is asked whether the accused had or had not applied for permission to leave at this time, he replies that he does not know, and that he was not in command of his regiment at that time. From the papers now filed in the case by Mr. Read, it appears that while he was in arrest, about October 31, 1862, he was confined to his quarters with intermittent fever, and that he received a surgeon's certificate (now filed in the case) setting forth that his complaint was of a very obstinate character, that he was greatly prostrated, and that it was necessary for him to be removed to a place of quiet and rest in order that his health might be restored. Upon this certificate Major Read remained behind ill at Poolesville, while his regiment marched into Virginia, and shortly after obtained a leave of absence, upon the certificate, for twenty days, from the Secretary of War. At the expiration of this time the major is shown to have reported back to his regiment.

"It is evident from these facts that he could not be held chargeable with a technical breach of arrest. He could not proceed with his regiment upon the march on account of severe sickness and his subsequent absence is properly accounted for by the most formal and satisfactory evidence.

"The circumstances of this officer's arrest, which were peculiar, may properly be alluded to in this connection. Colonel Leidy states that a period of ninety-three days was allowed to elapse between his original arrest and his trial by court-martial, and a further period of sixty days between his trial and the date of the publication of his sentence. These delays were almost necessarily unreasonable, and must have been most painful and harassing.

"But it further appears that General Birney, by whom the major had been placed in arrest, at a period between his trial and the publication of his sentence, by a special order temporarily suspended his arrest, returned to him his sword and placed him on special duty; that this duty continued for about three weeks when General Birney, by a further order returned him to arrest, required him to give up his sword and retained him in arrest until his sentence was promulgated, which took place more than a month and a half afterwards. This treatment of the accused was most ungracious and in a military point of view quite irregular and reprehensible.

"It remains only to add that during the periods of Major Read's absence he was reported upon the morning reports of his regiment as 'absent sick,' and never as 'absent without leave'; and that, as far as his regimental status was concerned he was not regarded as in any manner a delinquent.

"By the testimony in the record, and by the subsequent statement of Colonel Leidy, Major Read is shown to have been a faithful, meritorious, and popular officer; and under all the circumstances above detailed it is believed he has been harshly dealt with. It is not just that an irregular proceeding, while prostrated by a severe illness contracted in the service, should result in his being permanently disabled from again accepting a commission. His place in his regiment has been some time filled; but he desires to re-enter the service, and Governor Curtin commends his application for a favorable consideration.

"It is advised, therefore, that the disability of his sentence be removed by the President."

Thereupon the disability to re-enter the service was removed by letter from this Department to the governor of Pennsylvania, dated November 2, 1863.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 454.

NAPOLEON J. T. DANA.

FEBRUARY 26, 1892.—Laid on the table and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 4277.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4277) authorizing the President, by and with the advice and consent of the Senate, to place Napoleon J. T. Dana on the retired list of the Army, with the rank and pay of assistant quartermaster, having carefully examined the said bill and the evidence submitted therewith, recommend that the same do lie on the table.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 455.

AUGUSTUS BOYD.

FEBRUARY 26, 1892.—Laid on the table and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 1788.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1788) authorizing the President, by and with the advice and consent of the Senate, to place on the list of retired officers of the Army the name of Augustus Boyd, with the rank of captain, having carefully examined the said bill and the evidence submitted therewith, do recommend that the same lie on the table.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 456.

MARY ISABELLA HUTCHISON.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KRIBBS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5377.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5377) granting a pension to Mary Isabella Hutchison, submit the following report:

William Hutchison enlisted in Company A, One hundred and fifth Regiment Pennsylvania Volunteers, on August 23, 1861, and died while in the service on the 24th day of October, 1862. The claimant, his sister, and another sister since dead, were living with him at and prior to his enlistment, and were dependent upon him for support. Neither of them was ever married.

The evidence before your committee, consisting of the affidavits of nine neighbors, one of whom is the family physician, shows that the claimant is not of sound mind and never was; that she is poor, incapable of earning her own living, and entirely dependent upon others for her support. Her helpless and dependent condition is becoming more serious as she grows older. She is now 54 years old. There is not now and never has been any pension on account of the death of this soldier. The parents were dead before the soldier's enlistment.

The committee think this a proper case for a favorable report, and recommend the passage of the bill with the following amendment, adding after the last word of the bill the words "deceased, at the rate of $18 per month, to be paid to her legal guardian or person legally appointed to have charge of her person and estate."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 457.

JAMES H. WYATT.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, of Missouri, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1668.]

The Committee on War Claims, to whom was referred the bill (H. R. 1668) for the relief of James H. Wyatt, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fiftieth Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[House Report No. 1202, Fiftieth Congress, first session.]

This bill is based on a claim of James H. Wyatt for reimbursement of moneys laid out and paid by him while on hospital duty at Macon City, city of St. Louis, Mo., and Fort Donelson and Tullahoma, Tenn., in the years 1864 and 1865, in the purchase of medicines and other necessary supplies for the sick and wounded Federal soldiers, and which could not otherwise be obtained.

The evidence in the papers is not sufficient, in the opinion of your committee, to establish any claim against the Government; on the contrary, what evidence there is weighs against the claim. But the proviso to the bill is that the said Wyatt shall first prove up and establish said claim to the satisfaction of the proper auditing officer of the Treasury Department, that it was necessary for the health and comfort of said sick and wounded soldiers and could not at the time be obtained from the proper officers at said hospitals.

Your committee is of opinion that it is fair to give him the opportunity to prove his claim, if he have an honest one, and therefore recommend that the bill be amended by adding to the proviso, after the last word, these words, "and that said Wyatt did actually furnish said medicines and supplies, and they were actually used by the hospital officers for the use of the said sick and wounded soldiers, and the prices were reasonable."

The committee report back the bill and recommend that it pass as amended.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 458.

ENOCH P. WARD.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4369.]

The Committee on War Claims, to whom was referred the bill (H. R. 4369), for the relief of Enoch P. Ward, submit the following report:

The claim embraced in the present bill was duly referred to the Court of Claims for a finding of facts under the provisions of the act of March 3, 1883, commonly known as the Bowman Act. It appears that a hearing was had in that court of all the matters relating to the claimant's demand; that the United States was upon said hearing represented by counsel, and that after the hearing and due deliberation said court made a report to this committee, under date of June 6, 1890, as follows, to-wit:

[Court of Claims. Enoch P. Ward v. The United States. Congressional, No. 4188.]

This case being a claim for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, the court, on a preliminary inquiry, finds that Enoch P. Ward, the person alleged to have furnished such supplies or stores, or from whom the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

Since the reference of the case to this court further evidence has been taken which explains the testimony before the Commissioners and which establishes the loyalty of the claimant.

BY THE COURT.

Filed May 13, 1889.

Court of Claims, Congressional case No. 4188. E. P. Ward v. United States.

At a court of claims held in the city of Washingson on the 2d day of June, A. D. 1890, the court filed the following statement of case and findings of fact, to wit:

STATEMENT OF CASE.

The claim in the above-entitled case for supplies, or stores, alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, was transmitted to the court by the Committee on War Claims of the House of Representatives on the 24th day of April, 1888.

T. W. Tallmadge, esq., appeared for claimant, and the Attorney-General, by W. J. Rannals, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry the court, on the 13th day of May, 1889, found that the person alleged to have furnished the supplies or stores, or from whom they were al-

leged to have been taken, was loyal to the Government of the United States throughout said war.

The case was brought to a hearing on its merits on the 10th day of March, 1890. The claimant in his petition makes the following allegations:

That in Marshall County, Miss., the military forces of the United States, for their use, took from him stores and supplies consisting of horses, mules, corn, cattle, hogs, and fodder in the years 1862 and 1864, and aggregating in value the sum of $3,324.75.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I.

In the years 1862 and 1864, the military forces of the United States, for their use at the place aforesaid, took from said claimant stores and supplies of the kind and quality mentioned in his petition, amounting in value to the sum of $1,673 to the United States.

II.

It does not appear that any payment has been made to said claimant for any of said property.

BY THE COURT.

Filed June 2, 1890.
A true copy.
Test. This 5th day of June, A. D. 1890.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Your committee recommend that said findings of the Court of Claims be carried out by the passage of the bill, which is in harmony with the conclusions reached by the court.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 459.

JENNIE B. MORRIS.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUTLER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1338.]

The Committee on Invalid Pensions, to whom was referred the bill H. R. 1338) granting a pension to Mrs. Jennie B. Morris, submit the (following report:

This applicant, Jennie B. Morris, was the widow of George H. Harris, late a teamster in the Twenty-sixth Regiment of Iowa Volunteers, and, as such widow, she was pensioned under certificate No. 96222, under the name of Jane Harris, which pension she continued to receive until she was married to Mr. E. T. Morris, August 16, 1877.

Said marriage proved a very unhappy one, with no alleged fault on the part of this claimant, and on April 14, 1887, the district court of Polk County, Iowa, did grant a decree of divorce legally separating the parties to said marriage, and leaving this claimant entirely dependent on her own labor for support.

Evidence to establish the excellent character of this claimant, Mrs. Jennie B. Morris, is furnished by numerous prominent citizens of Des Moines, Iowa, among them Hon. Gilbert B. Pray, clerk of the supreme court of Iowa, Isaac Brandt, postmaster of Des Moines, Iowa, and John R. Shaffer, secretary of the State Fair Association, of Iowa.

This claimant is now in destitute condition, and greatly in need of the pension formerly received and now asked to be restored, as evidenced by many of the best of Des Moines citizens.

All the alleged facts in this case are also directly sustained by declarations of Hon. J. A. T. Hull, member of Congress from the Seventh district of Iowa in this House.

The case appears to be a worthy one, and in harmony with numerous precedents.

Wherefore, your committee reports back the bill with the recommendation that it be amended as follows: Strike out the word "Park," in the fifth line, and insert in its stead the word "Polk," so as to read "Polk County, Iowa;" also, add to the last clause of said bill the following: "And during the continuance of her present unmarried state,' and that as so amended the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 460.

ADDA L. BOODGER.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CURTIS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5766.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5766) granting a pension to Adda L. Boodger, submit the following report:

William Boodger enlisted in Company I, Ninety-fourth New York Infantry, February 14, 1864, and was discharged June 2, 1865, by reason of disability from gunshot fracture of left ileum received at battle of Weldon Railroad. He died April 16, 1875, from swelling and abscess of throat.

Adda L. Boodger, the daughter of the above-named soldier, was born July 9, 1854, and was consequently nearly 21 years of age at the date of his death.

It is alleged that the soldier left no widow surviving him, and it is shown by the affidavit of Dr. Simeon T. Clark, of Lockport, N. Y., that from her childhood the daughter, Adda L. Boodger, has suffered from curvature of the spine, causing anchylosis of the dorsal vertebræ; she has also a deformity of the breast bone. She is 4 feet 4 inches in height, weighs 75 pounds, is active and intelligent; but by reason of her deformity and weakness has always been dependent on her friends. The father left no estate, and but for the clemency of friends the claimant would have been a public charge.

William Landers and Frank Zimmerman testify that the claimant has two brothers who served in the Army and who are both still living; that her father received a pension during his lifetime, and that her mother died some fourteen months before her father's death; that the claimant is small, feeble, and practically entirely helpless.

The claim was rejected by the Pension Bureau on the ground that there is no provision of law under which she can be pensioned in view of the fact that the claimant was over 16 years of age at the date of the soldier's death.

In view of the physical condition of this soldier's daughter, your committeee return the bill with the recommendation that it do pass, after being amended as follows:

In line 4 strike out the words "grant a pension to" and insert in lieu thereof the words "place upon the pension rolls, at the rate of $10 per month, the name of;" in line 5, after the word "in," insert the words "Company I, of;" in line 6, strike out all the words after the word "Infantry," and strike out all of lines 7 and 8.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 461.

ROBERT H. MONTGOMERY.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, of Missouri, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 780.]

The Committee on War Claims, to whom was referred the bill (S. 780) for the relief of Robert H. Montgomery, submit the following report:

The facts out of which this bill for relief arises will be found stated in a report made by the Committee on Military Affairs of the present Congress, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[Senate Report No. 51, Fifty-second Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 780) entitled "A bill for the relief of Robert H. Montgomery," have had the same under consideration, and report it back favorably and recommend its passage.

The bill passed the Senate during the Fifty-first Congress and was reported favorably in the House.

Your committee adopt the report made at that time by the Military Affairs Committee of the Senate, as follows:

"The bill contains two relief propositions:

"The applicant asks to be relieved from any obligation to pay a judgment rendered against him by the Court of Claims for $1,651.37 under circumstances which will be stated. He also asks to be allowed credit for all purposes of pay and allowances for the period of time from November 19, 1863, to February 16, 1865, during which time he was a prisoner of war in the hands of the enemy."

Concisely stated, the facts presented to your committee are as follows:

"Capt. Robert H. Montgomery entered the mounted military service of the United States in August, 1860, and joined the Fifth Cavalry in Texas, remaining there until the State fell into the hands of the Confederates, serving as a noncommissioned officer. He took part in various battles and severe skirmishes in Virginia during the late war, being on the Peninsula and in the Virginia and Maryland campaigns, including the battles of Hanover Court House, South Mountain, Antietam, Gettysburg, Fredericksburg, Brandy Station, and an active participant in at least a dozen other conflicts in Virginia. He was discharged from enlistment December 17, 1862, and appointed a second lieutenant, in command of a company, from December, 1862, to October, 1863. For gallant and meritorious service at Beverly Ford he was brevetted a first lieutenant from June 9, 1863, and for like services at Brandy Station he was made a brevet captain, to date from August 1, 1863, and for gallant and meritorious services at Gettysburg he was recommended for brevet major in 1868.

"Since the late war he has been active in Indian hostilities. He has been twice nominated to the Senate to be brevet major for gallant conduct in the West, and for a brevet lieutenant-colonel for distinguished conduct in 1874.

"The military service of the applicant for relief embraces a period of a quarter of a century, and during the whole of that time, save when he was a prisoner of war, has

been marked by conspicuous gallantry in the field, and entitle his prayer to the liberal disposition of the Senate. His record is defective at the War Department through no fault of his own. While acting under orders and returning from a reconnaissance to ascertain the fate of a patrol that had been sent out, supposed to have been fired upon, Capt. Montgomery was ambushed and captured at Elk Run, Va., October 29, 1863, and was held by the enemy a prisoner of war until his exchange, March 1, 1865. He rejoined the Fifth Cavalry April 29, 1865, having been promoted to a first lieutenancy April 25, 1865, and to a captaincy to date from January 3, 1865. At the time of his capture he was beyond the videttes. It was hastily concluded that he was acting in disobedience of army orders, and his name was dropped from the rolls and dismissal from the service followed November 20, 1863.

"It is now conceded that at the time of his capture he was obeying the order of his superior, First Lieut. Jones, who had directed him to proceed far enough to ascertain the fate of the patrol sent out a short time before.

"The dismissal of Capt. Montgomery was based upon a mere conjectural statement of Adj. Hastings to Capt. Leib. The latter officer discovered the error, and requestedof the War Department a revocation of the order of dismissal. The erroneous conclusion reached was corrected by a military board, and on the 16th of February, 1865, the President revoked the order of dismissal and reinstated Montgomery.

"On the 18th of August, 1865, the War Department decided that Montgomery was entitled to pay during the time he was a prisoner of war, *i. e.*, from October 29, 1863, to March 1, 1865, and he drew ($1,651.37) for that time.

"In 1882 Capt. Montgomery presented his claim for longevity pay, basing his claim on the decision made by the United States in United States *v.* Tyler (105 U. S. Rep., 244), but the accounting officers refused payment, claiming that Capt. Montgomery was not an officer of the Army, and that the President's order of February 18,1865, revoking his order of dismissal and reinstating him, was illegal and void.

"The matter was taken to the Court of Claims, which sustained the accounting officers, upon the theory that the President exceeded his power.

"When so brave and gallant an officer asks for simple justice against a conceded wrong your committee will not stop to admit nor to controvert the legal position assumed by the Court of Claims. It is enough, in the judgment of your committee, to know that power exists in Congress to right a wrong in favor of an officer who has rendered long, faithful, and meritorious service, who was erroneously dismissed and who has too long been denied what has been accorded to others no more worthy.

"Your committee do not consider it necessary to attack the soundness of the legal theory asserted by the Court of Claims. A judicial tribunal has simply denied that the Executive had the power to revoke and reinstate, but there is not a whisper against the merit nor justice of this bill, and in favor of an officer with the record of Capt. Montgomery your committee do not hesitate to recommend the interposition of the power of the legislative branch in his favor. The legal theory of the Court of Claims was that Capt. Montgomery was *not in service* nor an officer of the army, either *de jure* or *de facto*, during the period of his captivity, and it rendered judgment against him for $1,651.37, being for the amount paid him during the time he was a prisoner of war, and the court for like reason denied him longevity pay for that time. Capt. Montgomery was captured as an officer while in line of duty, was held a prisoner of war as an officer, and was exchanged as such. He was dismissed without knowledge and without a hearing. He reëntered the military service as such officer on being exchanged, and has served as such for twenty years. To deny the prayer of the bill would be to inflict injustice. Ample reparation cannot be too quickly granted to a soldier who, while suffering the hardships and privations of a captive in a Southern military prison during the late war, is dismissed without knowledge or cause, and for that reason has been denied his rights."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 462.

WILLIAM F. WILSON.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, of Missouri, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 284.]

The Committee on War Claims, to whom was referred the bill (S. 284) for the relief of William F. Wilson, submit the following report:

The facts out of which this bill for relief arises will be found stated in a report made by the Committee on Claims of the Senate of the present Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[Senate Report No. 96, Fifty-second Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 284) for the relief of William F. Wilson, have considered the same and respectfully report:

We adopt the report hereto annexed, made by this committee in the first session of the Fiftieth Congress, and also in the first session of the Fifty-first Congress, and recommend the passage of the bill.

[Senate Report No. 2099, Fiftieth Congress, first session.]

Mr. Wilson, in 1861, was a foreman in the armory at Harpers Ferry, W. Va. In 1868 he filed his claim against the Government in the office of the Quartermaster-General, and Special Agent Thomas P. Chiffelle was appointed to examine into the merits of the claim and the loyalty of the claimant. His report is as follows:

Claim of William F. Wilson, Harpers Ferry, Jefferson County, W. Va.

1864. Dec. For use and occupation of house and lot from March, 1862, to December, 1864, 33 months, at $10 per month	$330
Destruction of dwelling, outbuildings, fences, etc	1,200
Total	1,530

The above claim is instituted for the purpose of recovering the sum of $1,530, alleged to be the amount due the claimant for the use and occupation of his premises and for the destruction of his dwelling, etc., by United States troops.

The claimant in the above case, Mr. William F. Wilson, was at the time this claim originated a resident of Harpers Ferry, in Jefferson County, W. Va., and the owner of a very fine one-and-a-half story brick dwelling and of the lot on which it was built, situated upon a hill known as Camp Hill, overlooking the village of Harpers Ferry.

Mr. Wilson bears a very high reputation amongst his neighbors for being a person of strict integrity of character and honesty of purpose. He has always been, both during and since the rebellion, loyal to the United States.

Mr. Wilson, previous to the war, was employed in the United States service in the armory at Harpers Ferry as one of the foremen in the rifle works. On the breaking out of the rebellion he was very active in his exertions in endeavoring to secure to the United States the arms and ammunition deposited there. By his course, as well as by the warm and hearty support which he gave to the General Government, he made himself very obnoxious to several of the citizens of Harpers Ferry, and on the occu-

pation of this place by the rebel forces he was forced to flee for his life. He succeeded in reaching Washington and obtained employment in the navy-yard, where he remained for some time; afterwards he was employed, up to the close of the war, at Bridesburg, Pa., by Alfred Jenks & Son, in superintending their musket works.

His witnesses are all men of standing and character in Harpers Ferry, were loyal during the war, and are registered as voters in that district.

It appears upon examining this claim that in the year 1862 Col. Benjamin Huger, U. S. Army, then in charge of the armory at Harpers Ferry, sold at public auction, by authority of the Department, to Mr. Wilson, a brick house and a lot in that village, situated on Camp Hill, at the corner of Fillmore and McDowell streets, for the sum of $650. The building was a one-and-a-half story brick dwelling, 22 by 28 feet, containing some six rooms, with a small one-story brick kitchen attached thereto. The premises not being in very good repair at the time of purchase Mr. Wilson expended in repairing and improving the property by painting, by the erection of a front porch, a stable, a large brick cistern, and a garden house, and also by inclosing the entire lot with a good and substantial pale fence, some $700 or $800, making the buildings and lot when completed cost him nearly $1,400. I feel satisfied from all the information I can gather that the same character of dwelling, together with the outbuildings, can not be erected at this time for less than $1,800, and therefore think that Mr. Wilson's charge of $1,200 is not only reasonable but just.

It further appears that on or about the month of March, 1862, this house and lot was taken possession of by the United States troops and used by them until December, 1864, as a hospital and quarters for officers and soldiers; that the interior of the dwelling, the outbuildings, and fencing having been entirely destroyed during the occupancy by the soldiers, Gen. Stevenson, U. S. Army, commanding, gave permission to Col. Graham, Fifth New York Heavy Artillery, to pull the building down and to use the material of which it was composed in the construction of winter quarters for his command. This permission or order was so well and effectually complied with that there is nothing now remaining to designate the former site but a portion of the foundation of the main dwelling.

Mr. A. Cox, now a resident of Harpers Ferry, but during the war a lieutenant in the Fifth New York Heavy Artillery, stated to me that while stationed at Harpers Ferry he, by order of Col. Graham, assisted in superintending the tearing down of Mr. Wilson's dwelling and in the subsequent use of its material in the construction of winter quarters for his command.

It still further appears that on February 27, 1866, Capt. W. G. Young, military storekeeper United States ordnance, by direction of the Ordnance Department, sold the bricks from Mr. Wilson's dwelling, together with others belonging to different individuals, at public auction in Harpers Ferry, for and on account of the United States, and accounted for the proceeds of the sale on his property return for that month.

The amount of rent charged by Mr. Wilson for the time his premises were occupied by the United States troops is also exceedingly reasonable; it is somewhat less than that for which similar buildings rented for at that time in Harpers Ferry.

I see no reason for recommending any alteration in the account. The claim seems to be in every respect just and proper.

Respectfully submitted.

THOMAS P. CHIFFELLE, *Agent.*

Bvt. Maj. Gen. STEWART VAN VLIET,
Deputy Quartermaster-General, U. S. Army.

This report on April 23, 1868, was indorsed as follows:

Respectfully forwarded to the Quartermaster-General, with the recommendation that Mr. Wilson's claim be allowed in full.

STEWART VAN VLIET,
Deputy Quartermaster-General, Baltimore, Md.

The Quartermaster-General, in a letter to the Secretary of War dated June 2, 1868, approved the claim for $330 for rent, but the item for the destruction of the building was disapproved, as there was no appropriation out of which the sum could be paid. The recommendation of the Quartermaster-General was approved by the Secretary of War. The Third Auditor, on the 13th of January, 1870, disapproved the claim, holding that the act of February 19, 1867, which construed the act of July 4, 1864, extended to the counties of Jefferson and Berkeley, in West Virginia, and that all claims "on account of occupation or injury to real estate could not be entertained by the accounting officers of the Treasury when such claims originated in either of said counties and during the war of the rebellion." This view was concurred in by the Second Comptroller of the Treasury.

The report of the special examiner shows this to be a most meritorious claim, and the bill is therefore reported favorably with the recommendation that it do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 463.

ESTATE OF A. H. HERR.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, of Missouri, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 657.]

The Committee on War Claims, to whom was referred the bill (S. 657) for the relief of the estate of A. H. Herr, deceased, submit the the following report:

The facts out of which this bill for relief arises will be found stated in a report made by the Committee on Claims of the Senate of the present Congress, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[Senate Report No. 95, Forty-second Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 657) for the relief of the estate of A. H. Herr, have considered the same and respectfully report:

Your committee adopt the report submitted by them during the first session of the Fifty-first Congress, and recommend that the bill do pass. This bill passed the Senate last Congress.

The adopted report is as follows:

This claim has been before Congress since the first session of the Forty-second Congress, and has received favorable consideration in both the House and Senate.

The report of Mr. Rowell, made to the House of Representatives at the first session of the Forty-eighth Congress, is so full and conclusive that your committee have adopted it as a fair statement of the grounds for relief. He states:

This claim is for the use and occupation of Herrs Island, near Harpers Ferry, W. Va., by Federal troops from February. 1862, to February, 1866.

The property in question "was a very extensive and valuable estate, embracing twelve acres of land, thirty-two dwelling houses, a large four-story cotton factory building, a large iron foundry, sawmill, and many outbuildings," and was all occupied at various times during the period named, and under control of acting quartermasters in the U. S. Army.

Mr. Herr, the owner of the property, was a loyal citizen, who for his loyalty suffered imprisonment at the hands of the rebels, and many other vexations—besides great destruction of property.

February 28, 1866, Maj. Gen. W. S. Hancock made an order convening a board of officers to examine and report upon the condition of property in the department lately used by the Government, under the direction of the Quartermaster's Department, with a view of determining what would be required to put it in the same condition as when first occupied by the Government.

In accordance with such order, the board convened and proceeded to examine the various property covered by the order, and on July 3, 1866, entered upon a critical examination of the property involved in this case, and of the evidence of its occupation, and its rental value; and reported in detail each building occupied, the time of its occupancy, and the rental value. The result of this examination was a report of a total rent of $17,288.53.

This report was not approved by the Quartermaster-General, but the claim was by him referred to Gen. Blunt, chief quartermaster, Department of the Potomac, who, on December 27, 1866, made return of his conclusions, in which he stated that he had made personal examination of the premises, accompanied by his agent, and

was satisfied that the buildings were occupied for military purposes for the whole of the time alleged in the claim. He expresses the opinion that the occupation tended to preserve the buildings from being destroyed by the rebels, and also says that the works not being in operation would prevent the owner from deriving any material benefit from it. Yet, he says, the Government derived material benefit from its use, and he carefully readjusts the estimates of the board of officers and recommends the allowance of $15,294.58.

Upon receipt of this report Acting Quartermaster-General Rucker disallowed $8,408.33 of the claim, and recommended the payment of $6,886.25.

This reduction was made upon the statement in the report of Gen. Blunt, that the occupancy of the property by the Army had the effect to protect it from destruction by the rebels, and the assumption that the works were not in operation, and therefore were of little use to their owner.

This finding was approved by Quartermaster-General Meigs, but the claimant refused to accept the amount.

Subsequently the whole matter was referred to Deputy Quartermaster-General Ekin, who, on June 7, 1869, made an elaborate report upon the findings of the board of officers, the report of Gen. Blunt, and the action of the Quartermaster-General on the same. He also considered additional evidence, which showed that the supposed facts in regard to the operation of this property by the owner, as reported by Gen. Blunt, did not in reality exist, and that the condition of the property, with reference to its use by the owner, had been misunderstood.

The report also combats the idea that its occupancy by the Union troops tended to preserve it from destruction.

After reviewing the history of the case and reciting the evidence upon which his findings were based, the report concludes with recommendation of an allowance of $15,000.

This report is returned by the Quartermaster-General to Gen. Ekin, with a suggestion that it is like another case cited. Whereupon Gen. Ekin makes response as follows:

"The ruling in the Murfreesboro decision could be made applicable in this case, but in view of the fact that it has been the custom of this Department to pay rent for property at Harpers Ferry, which was occupied by the United States during the war, and in the absence of any law or order prohibiting its payment, I can not perceive any just reason why Mr. Herr should not be paid such rent as may be found to be due him."

March 16, 1874, the claim was taken before the Secretary of War for review, who, upon an examination of all the papers in the case, approved the finding of the board of officers convened by Gen. Hancock, but on reference to the accounting officers the Third Auditor reported adversely, and the claim was disallowed by the Comptroller April 7, 1874—

"On the ground that the prohibitory act of February 19, 1867, was not repealed by the joint resolution of July 28, 1866, extending the benefit of the act of July 4, 1864, to the counties of Jefferson and Berkeley, W. Va."

On reargument this decision was reaffirmed May 26, 1874.

The case was finally reviewed by the Comptroller July 23, 1875. In that review he says:

"There is but one question now to be determined in the case. The claimaint's loyalty and ownership, the occupancy of the property by the Federal forces, the proper administrative action in the War Department, and perhaps the amount of compensation to be allowed, are all sufficiently shown."

After reciting the various acts of Congress bearing upon the right to adjust and pay this claim, the report says:

"It [the act of 1867] expressly prohibits the settlement of certain claims originating in a State, or part of a State, described in the proclamation of July 1, 1862. * * * Jefferson County, Va., is among the counties described in that proclamation, and the prohibition, it seems to me, is as positive as if the act had repeated the words of the proclamation."

And so this claim was rejected—not because it ought not to be paid, but because the Department before which it was pending was expressly prohibited by act of Congress from settling claims of this character.

The committee are of the opinion that the allowance of this claim is an act of justice which ought not longer to be delayed for want of a tribunal in which to enforce it.

Claimant's property was occupied by United States troops without any express agreement as to the amount of compensation. Its use was of great value to the Government, and effected a saving of much more than the amount claimed. Its occupancy was a necessity at the time. The officers taking possession and the claimants both supposed that reasonable rent was to be paid. Large damage was done to the property, for which no claim is made.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 464.

C. M. SHAFFER.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 268.]

The Committee on War Claims, to whom was referred the bill (S. 268) for the relief of C. M. Shaffer, submit the following report:

The facts out of which this bill for relief arises will be found stated in a report made by the Committee on Claims of the Senate of the present Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[Senate Report No. 94, Fifty-second Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 268) for the relief of C. M. Shaffer, have considered the same and respectfully report:

We adopt the report hereto annexed, made by this committee in the first session of the Fiftieth Congress, and again in the first session of the Fifty-first Congress, and recommend the passage of the bill.

This bill passed the Senate in both the Fiftieth and Fifty-first Congresses.

[Senate Report No. 1850, Fiftieth Congress, first session.]

It appears from the papers in the case that C. M. Shaffer, a citizen of Martinsburg, W. Va., was, at the breaking out of the war, doing business as a merchant at that point. He owned a large, three-story warehouse, 60 by 35 feet, with a siding running to the platform of the said warehouse. Although the evidence is conclusive that the claimant was a bold, outspoken Union man, yet the locality of his warehouse induced the officers of the Federal Army to take possession of the same as the depository of commissary and quartermaster stores. The evidence establishes the fact that this warehouse, during the entire period of the occupation of the town of Martinsburg by the Federal troops, was used and occupied for the purpose aforesaid, and that during the period of thirty-six months the claimant was only paid rent for six months at the rate of $50 per month, the time for which he was paid being from March 1 to August 31, 1862. The sum of $300 was paid him by Capt. Bowers, after having been first approved by the Quartermaster-General in Washington.

The evidence filed in the papers establishes conclusively the following facts:

(1) That the claimant was a loyal man and a law-abiding citizen, outspoken in his declarations of sympathy for the cause of the Union.

(2) That his warehouse was occupied during a period of thirty-six months by Federal officers as a depository for commissary and quartermaster stores, under promise that rent should be paid for the same.

(3) That the rent was paid for the first six months during its occupancy at the rate of $50 dollars a month, amounting to $300.

(4) That the value of the rent as fixed by loyal citizens at the time of its occupancy was $75 per month, and by the evidence of witnesses filed in the case of $100 per month.

(5) That he accepted from the Government, for the first six months, rent at the rate of $50 per month, although at the time demanding more.

(6) That it was occupied and under the control of Capts. Crawford, Turner, Douglass, Gray, Patton, and Moffett, and used as aforesaid, all of whom promised payment of rent, but who failed to give the proper vouchers by reason of their leaving the place suddenly, without the knowledge of the claimant

(7) That the Government at the time recognized this claim as a proper liability, and also the loyalty of the claimant, as shown by Exhibits A and B, hereto attached as a part of this report.

(8) That the claimant has for a number of years been making application to Congress for relief, but has so far failed to obtain it, although his case seems to be conclusively made out by the evidence filed.

Although the testimony would justify Congress in paying rent for this property at the rate of $75 per month or $100 per month, yet as the claimant accepted the sum of $50 per month as a fair rental value of the property in 1862, the committee feel that they should limit his claim to that amount. Under this view of the case the account would stand as follows:

Rent of warehouse for thirty-six months, at $50 per month	$1,800
Less six months' rent paid, at $50 per month	300
Balance due	1,500

It is recommended that Senate bill 3015 be amended in line 6 by striking out the word "twenty-one" and inserting "fifteen," and as so amended the bill is reported favorably, with the recommendation that it do pass.

EXHIBIT A.

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., October 21, 1867.

GENERAL: The inclosed claim in favor of C. M. Shaffer, of Berkeley County, W. Va., for lumber, spikes, nails, etc., stated at $49.92, and for rent of warehouse from March 20 to September 20, 1862, at $50 per month, $300, amounting in all to $349.92, having been examined at this office, is herewith respectfully referred to you for payment.

The following recommendation has been approved by the War Department, viz:

"That the claimant be allowed the sum of $349.92 in full of his claim for plank, nails, etc., and in full of rent for his warehouse at the Martinsburg depot, while occupied by the United States, from March 20 to September 20, 1862, and for any and all claims that might originate from the occupancy by the United States of the said warehouse, and that the paying officer be relieved from the usual property accountability for the plank, spikes, etc., charged in the account first referred to."

R. A. Sommerville, Martinsburg, W. Va., by whom the claim was presented, has been advised of this reference.

Very respectfully, your obedient servant,

CHAS. THOMAS,
Asst. Q. M. Gen'l in charge, Bvt. Maj. Gen'l, U. S. Army.

Bvt. Maj. Gen. S. VAN VLIET,
Deputy Quartermaster-General, etc., Baltimore, Md.

EXHIBIT B.

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., June 23, 1883.

SIR: Your communication of the 21st instant relative to claim of Mr. C. M. Shaffer, of Martinsburg, W. Va., for rent of a warehouse at that place, has been received.

In reply I have the honor to inform you that it appears from the records of this office that claims have been presented and filed here in favor of Mr. Shaffer as follows:

(1) Claim for rent of house, three rooms, as subsistence store and office, from Jan-

uary 17 to April 5, 1863, at $40 per month, $106.67. This claim was referred June 18, 1884, to Capt. R. S. Gardner, A. Q. M. at Harpers Ferry, Va., for payment upon proof of loyalty.

(2) Claim for stores alleged to have been taken from him by the United States on March 14, 1862, as follows:

1,080 feet of plank for platform	$21.60
Making six sections of platform	7.50
15 pounds of spikes used	1.50
678 feet of plank for bunks	13.56
72 pounds of nails used	5.76
	49.92

(3) Claim for rent of warehouse in Martinsburg, for six months, from March 1 to August 31, 1862, at $50 per month, $300.

On October 31, 1867, these two claims were referred to Gen. Stewart Van Vliet for payment; copy of letter herewith.

The records here afford no further information in regard to the above-mentioned claims, and no record is found of any other claim in favor of Mr. Shaffer, either for rent or for quartermaster stores.

Very respectfully, your obedient servant,

S. B. HOLABIRD,
Quartermaster-General, U. S. Army.

Hon. CHARLES J. FAULKNER,
United States Senate.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 465.

TRUSTEES OF THE METHODIST EPISCOPAL CHURCH OF MARTINSBURG, W. VA.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 276.]

The Committee on War Claims, to whom was referred the bill (S. 276) for the relief of the trustees of the Methodist Episcopal Church of Martinsburg, W. Va., submit the following report:

The facts out of which this bill for relief arises will be found stated in a report made by the Senate Committee on Claims of the present Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[Senate Report No. 97, Fifty-second Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 276) for the relief of the trustees of the Methodist Episcopal Church of Martinsburg, W. Va., have considered the same and would respectfully report:

We adopt the following report submitted by this committee during the first session of the Fifty-first Congress, and recommend the passage of the bill.

This bill passed the Senate during the Fifty-first Congress.

The report is as follows:

It appears from the evidence in the case that the Methodist Episcopal Church, located on the public square in the town of Martinsburg, was taken possession of on January 1, 1863, and occupied and used for the purposes of a hospital by the Union Army during the months of January, February, March, April, May, and June of that year, and during the month of May, 1864.

This was one of the last churches in that town to be seized by the military authorities for hospital purposes.

The continual movement of the armies up and down the valley of Virginia, the numerous battles in which the contending forces were engaged, and the constant occupation by the Union Army of Martinsburg, caused the military authorities to select it as a point at which to establish hospitals for the Army, and as it was then a town of but 2,500 inhabitants, with but few large buildings in it, they were compelled to occupy the court-house and all the churches of the town for the purpose of hospitals.

In the case of the Methodist Episcopal Church the members of the congregation, by reason of their loyalty to the Union, succeeded in preventing the occupation of their church until some time after all the others had been occupied, but the necessities of the military service compelled the use and occupation of this church for the purposes hereinbefore mentioned.

The claim of the church was filed for the destruction of thirty-two pews, two stoves, eight window blinds, and damages to windows, amounting in all to $466, and for rent of building to the amount of $1,400, in the Quartermaster's Department

in March, 1867, and on August 9, 1867, it was referred by the Assistant Quartermaster-General to Gen. S. Van Vliet for investigation and report.

This was submitted by Gen. Van Vliet to a special agent of the Department, Mr. Thomas P. Schiffle, who reported that "the loyalty of the members of the above church, who instituted this claim, is beyond question," and then proceeds to analyze the items and to apply the evidence to it, and reduces the claim as to the pews, stoves, blinds, and damages to windows from $466 to $318.

On February 25, 1868, Gen. Van Vleit indorsed the report, with the recommendation that it be reduced to the damages reported upon, from $466 to $318.

On June 6, 1868, the Quartermaster-General, in a communication to the Secretary of War, in forwarding the report upon said claim, recommends the payment of $318, but suggests that under existing orders of the War Department "no rent can be paid for the use of churches or other public buildings." This was indorsed by Gen. Schofield, Secretary of War, on June 24, 1868.

The claim was then forwarded to the Third Auditor for allowance, who, on January 18, 1870, rejected the same upon the following grounds: He quotes a previous opinion rendered by the Department as covering this case and excluding it from consideration. He says:

"In the matter of the Elk Branch Presbyterian Church, claim No. 18247, it was held by you (referring to the Second Comptroller), concurring in the opinion of the Third Auditor, that the act of February 19, 1867, extended to the counties of Jefferson and Berkeley, W. Va., and that claims on account of the occupation of and injury to real estate should not be entertained by the accounting officers of the Treasury where such claims originated in either of said counties, and during the war of the rebellion."

It has been by reason of said statute that churches that were occupied for hospital purposes in the counties of Jefferson and Berkeley during the war have been compelled to apply to Congress for relief, as those counties were regarded as within the territory in insurrection against the Government of the United States, although in fact they were in the occupation and possession of the Union armies throughout the whole war, with the exception of the movements of the Army of Northern Virginia and the Army of the Valley during the summer months.

In every instance where these churches have been used for such purposes Congress has paid a reasonable rent and compensation for the same.

This case has been before Congress since 1872, but like many other claims has not been favorably acted upon by both Houses and become a law.

The proof would fully sustain the claim of $1,886 made by the trustees of said church, but as the rent is fixed higher than the committee has been allowing for the use and occupation of similar buildings, after carefnl consideration, your committee is of the opinion that the bill should be amended in line 7, by striking out "eight hundred and fifty," so that the amount allowed said church would be $1,000, and, as so amended, would report the bill favorably, and recommend that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 466.

WELLS C. McCOOL.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 860.]

The Committee on War Claims, to whom was referred the bill (S. 860) for the relief of Wells C. McCool, submit the following report:

The facts out of which this bill for relief arises will be found stated in a report made by the Committee on Military Affairs of the Senate of the present Congress, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[Senate Report No. 42, Fifty-second Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 860) entitled "A bill for the relief of Wells C. McCool," have had the same under consideration and report it back favorably and recommend its passage.

This bill passed both Senate and House during the Forty-ninth Congress, but failed to reach the Executive in time for his action. It was likewise favorably reported in the House during the Fiftieth Congress, and it passed the Senate of the Fifty-first Congress and was favorably acted on by the House committee (see S. Rep. 419 and House Rep. 1791).

Your committee adopt the report of the Senate Committee on Military Affairs in the Forty-ninth Congress as its own, as follows:

[Senate Report No. 1942, Forty-ninth Congress, second session.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3930) for relief of Wells C. McCool, having had the same under consideration, have carefully examined a mass of sworn and documentary evidence in support thereof, and report it back favorably, and recommend the passage of said bill.

The testimony submitted fully supports the statement of facts found in the House report (hereto annexed), and, in the judgment of your committee, justifies the conclusion therein arrived at.

The applicant had not been long in the service, and was not fully qualified from experience to comprehend the full force of a disobedience of orders, even when such orders seemed ill-advised and injurious to the men in his command.

The fact that the charge was removed tends to prove that it was not regarded as heinous, and McCool having thereafter served for about two years as a private in the same regiment and until mustered out in 1865, your committee are of the opinion that he is entitled to the relief asked for.

HOUSE REPORT.

The committee find the facts to be as follows: On the 1st of December, 1862, Wells C. McCool, of Guthrie County, Iowa, was regularly mustered into the service of the United States as first lieutenant, Company A, Twenty-ninth Iowa Infantry Volunteers, and in March, 1863, he had a personal difficulty with the lieutenant-colonel of his regiment, was tried by court-martial, and sentenced to be dismissed from the service of the United States, with loss of all pay and allowance; that sentence of said court-martial was approved April 30, 1863, and that the said Wells C. McCool served as such lieutenant until that time; that subsequently, on the 12th of September, 1863, the said Wells C. McCool was reinstated in Company I, Twenty-ninth Iowa Infantry Volunteers, as a private soldier, and served faithfully as such until the close of the term of service of said company, when he was mustered out with his company and regiment on the 10th of August, 1865; that his disabilities on account of said dismissal were removed by the President of the United States on the 22d of August, 1867, and that he was afterwards commissioned by the governor of Iowa as an officer in the State troops of said State, and faithfully served as such until he removed from the State.

The faithful service performed by said Wells C. McCool prior to said court-martial and sentence, and his subsequent faithful voluntary service in the capacity of a private soldier for the period of over two years, justly entitle him to the relief sought for in the bill, and your committee therefore recommend the passage of the same.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 467.

ST. JOSEPH'S CATHOLIC CHURCH, MARTINSBURG, W. VA.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 273.]

The Committee on War Claims, to whom was referred the bill (S. 273) for the relief of the trustees of St. Joseph's Catholic Church of Martinsburg, W. Va., submit the following report:

The facts out of which this bill for relief arises will be found stated in a report made by the Committee on Claims of the Senate of the present Congress, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[Senate Report No. 100, Fifty-second Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 273) for the relief of the trustees of St. Joseph's Catholic Church, of Martinsburg, W. Va., have carefully examined the same and respectfully report:

We adopt the report hereto annexed, made by this committee in the first session of the Fifty-first Congress, and recommend that the bill do pass.

That they have examined the evidence filed in this claim, and find the facts to be as follows: That the St. Joseph's Catholic Church, located in Martinsburg, W. Va., was a large building, the first story of which was built of cut limestone 10 feet high, the superstructure on which was constructed of brick. The size of the building was 100 feet long by 60 feet wide. The basement was occupied for secular and religious schools connected with the Catholic Church, and the upper building, or auditorium, was used exclusively for church purposes.

The church property was taken possession of on the 4th of March, 1862, by the Federal Army, the basement being occupied as a stable and the upper part of the building being used for a hospital.

The evidence filed in the case shows that the building was used for the purposes stated from the time possession was taken in 1862 until the close of the war, when it was turned over to the church authorities. The witnesses that prove the use and occupation are respectable citizens of the town of Martinsburg, the priest in charge of the building, and the soldiers who occupied the basement for a stable, all of whom fix a fair rent value for this property at $80 per month.

The correctness of the facts set forth in the petition and proof furnished is further certified to by a letter addressed by Charles Bowman, commodore, U. S. Navy, from his personal knowledge, to Quartermaster-General Meigs, dated May 30, 1874.

All of the men who are witnesses in the case are men whose loyalty to the Federal Government was unquestioned.

The following account was filed in the War Department in 1874, certified to the Third Auditor of the Treasury on April 9, 1875.

No action seems to have been taken, and the acting depot quartermaster at Washington, to whom it had been referred for report and recommendation, was subse-

quently instructed to return the papers to the Quartermaster-General, under the theory, we suppose, held by the Department at that time, that it could not pass upon and allow claims for rent and occupation in the States declared in rebellion, although the county of Berkeley was within the Federal lines from the opening to the close of the war, with exception of the advance during the summer of the Army of Northern Virginia down the valley and when passing through its territory to Maryland.

The account as filed is—

For rent of church building for three years	$2,880
For repairs to same	570
For repairs to fence inclosing cemetery	500
Aggregating	3,950

It has not been customary for the committee to allow the cost of repairs when the rent has been allowed, and for this reason the item of $570 must be disallowed; and the repair of the fence inclosing cemetery, costing $500, must also be disallowed, under the former rulings of the committee; and there is not sufficient proof in the papers to show for what purpose and use the fence was taken by the Federal Army, nor is the proof conclusive that it was entirely consumed in any way by the Federal troops.

Your committee is of the opinion, however, that the item for rent of said building is a proper charge against the Government, and should be allowed.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 468.

REFUND OF MONEY TO WEST VIRGINIA.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 1062.]

The Committee on War Claims, to whom was referred the bill (S. 1062) to refund to the State of West Virginia the money paid to officers of the One hundred and thirty-third Regiment West Virginia Militia for services rendered during the rebellion, submit the following report:

The facts out of which this bill for relief arises will be found stated in a report made by the Committee on Claims of the Senate of the present Congress, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[Senate Report No. 99, Fifty-second Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 1062) to refund to the State of West Virgina the money paid to officers of the One hundred and thirty-third Regiment West Virginia Militia for services rendered during the rebellion, have considered the same and respectfully report:

We adopt the report, hereto annexed, made by this committee in both the Fiftieth and the Fifty-first Congresses, and recommend that the bill do pass. This bill passed the Senate in both of these Congresses.

[Senate Report No. 1204, Fiftieth Congress, first session.]

Congress, at the first session of the Thirty-ninth Congress, passed an act, which was approved June 21, 1886, entitled "An act to reimburse the State of West Virginia for moneys expended for the United States in enrolling, equipping, and paying militia forces to aid in suppressing the rebellion."

Under the provisions of this act the three commissioners appointed by the President passed upon the claims presented by the State of West Virginia, and which had been paid by her, in accordance with the said act. Among other claims presented to the said Commission were the claims of Ezra B. Morgan, Daniel Gould, Harvey Geyer, and L. Y. McAvoy, as will be seen by a copy of the pay roll certified from the Third Auditor's Office of the Treasury Department of the United States, hereto attached, marked Exhibit A. Although the rank of each of these officers of the One hundred and thirty-third Regiment of West Virginia Militia is given on this pay roll, the fact also appears that they were allowed pay only as privates, and not in accordance with their respective ranks. Why this was done does not appear either in the records of the State, now in possession of the Adjutant-General, nor from any of the records in the possession of the Government of the United States. The only thing that is certain, from both State and Federal records, is that these officers were paid by the State of West Virginia at the time only the pay of privates, and that consequently in the settlement of the accounts of the State of West Virginia with

the United States the Government refunded only the amount that was paid by the State. These officers, as is shown by affidavits attached to said certificates, were captured at Centerville, W. Va., on the 12th of September, 1863.

The adjutant-general of the State of West Virginia, in a letter dated February 3, 1887, addressed to the Adjutant-General of the United States, certifies that the above parties were duly commissioned by the governor of the State, and he asks information why they were only paid as privates and not as other officers of the said regiment. (See Exhibit B.)

This letter was indorsed by the Adjutant-General of the United States as follows:

"WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
"*February 8, 1887.*

"Respectfully returned, with the information that no such organization as the One hundred and thirty-third Regiment West Virginia Militia is known to this office.

"In regard to payment of regiment, it is suggested that application be made to the Third Auditor of the Treasury, as payment by the United States (if any) was made in the settlement of the war claims of the State of West Virginia.

"THOMAS WARD,
"*Assistant Adjutant-General.*"

The application recommended to be made in the indorsement of the Adjutant-General resulted in having forwarded by the Third Auditor the copy of the pay roll as herein set forth.

This matter was brought before the legislature of the State of West Virginia, and after an investigation of the rights of the said officers to compensation according to their respective ranks, and ascertaining that they had never been paid other than as privates, that body passed an act May 14, 1887, appropriating to—

Maj. Ezra B. Morgan	$480.40
Capt. Daniel Gould	748.90
Lieut. Harvey Geyer	685.73
Lieut. L. Y. McAvoy	104.54
Total	2,019.57

which has been paid to the parties entitled to the same by the State. The legislature at the same session passed the following joint resolution:

"*Resolved by the legislature of West Virginia,* That the Senators and Representatives in Congress from this State be requested to take the proper steps to have the General Government refund to this State the sum of $2,019.57, being the amount appropriated at this session of the legislature to pay certain officers, and the heirs of such of said officers as are dead, of the One hundred and thirty-third Regiment of West Virginia Militia, for services rendered by them as such in the war of 1861–1865, being the difference between $13 per month received by them and the amounts they should have received as such officers."

There can be no question that if the State had paid to these officers the sums to which they were entitled, as shown by this investigation by the legislature, prior to the time of the settlement by the commissioners, under the act of June 21, 1886, of the account of the State of West Virginia against the United States, that amount would have been included in that settlement, and would have been refunded to the State as the sums paid to other officers of the same regiment according to their respective ranks had been paid by the State, and was under that settlement refunded to it by the Government.

The committee can not conceive upon what theory the Government can now refuse to refund to the State the amount paid by her to these officers, and which would have been paid by the Government had the State paid it prior to this settlement.

The committee would therefore report Senate bill 1807 favorably, with the recommendation that it do pass.

EXHIBIT A.

Pay roll of Capt. Daniel Gould's Co. C, One hundred and thirty-third Regiment West Virginia Militia, which was captured at Centerville, W. Va., on the 12th day of September, 1863.

Name.	Date of death or return home.	Time.		Amount.	Received payment of.	Witness.	
		Mo.	Dys				
1. Ezra B. Morgan, maj.	Died Apr. 17, 1864.	7	6	$93.60	See adm'r receipts.	.....	1.
2. Daniel Gould, capt..	Ret. Jan. 8, 1865...	15	28	207.10	Daniel Gould.	G. W. Brown..	2.
3. Harvey Geyer, 1st lt..	Ret. Mar. 28, 1865..	18	16	240.93	Harvey Geyer.	G. W. Brown..	3. Paid.
4. L. Y. McAvoy, 2d lt..	Ret. Dec. 19, 1863..	3	8	42.46	L. Y. McAvoy.	G. W. Brown..	4.
5. * * *	* * *	*	*	* *	* * *	* * *	5.
6. * * *	* * *	*	*	* *	* * *	* * *	6.
7. * * *	* * *	*	*	* *	* * *	* * *	7.
				6,950.85			

STATE OF WEST VIRGINIA,
Upshur County, Buckannon Township, to wit:

Personally appeared before the undersigned, a justice in and for said township, Capt. Daniel Gould, and made oath that the men whose names are borne upon the foregoing roll were captured at Centerville, W. Va., on the 12th day of September, 1863, by a party of rebels under the command of one Maj. Kesler.

Given under my hand this 16th day of June, 1865.

J. D. RAPP,
Justice.

[5-cent internal-revenue stamp.]

STATE OF WEST VIRGINIA, *Office Secretary of State:*

I, John S. Witcher, secretary of the State aforesaid, hereby certify that J. D. Rapp, whose name is subscribed to the foregoing certificate, was at the date thereof a justice of the peace in and for the county of Upshur, in said State, duly commissioned and qualified as such; and that his signature to said certificate is, I verily believe, genuine.

In testimony whereof I have hereunto set my hand and affixed the seal of the said State, at my said office in the city of Wheeling, this 22d day of November, 1867.

[SEAL.]

JOHN S. WITCHER,
Secretary of the State.

TREASURY DEPARTMENT,
Third Auditor's Office, February 15, 1887.

A true copy:

G. WILLIAMS,
Clerk.

EXHIBIT B.

STATE OF WEST VIRGINIA, OFFICE OF ADJUTANT-GENERAL,
Charleston, February 3, 1887.

SIR: The records of this office show that Maj. Ezra B. Morgan, Capt. Daniel Gould, First Lieut. Harvey Geyer, and Second Lieut. L. Y. McAvoy, of the One hundred and thirty-third Regiment West Virginia Militia, who were captured at Centerville, W. Va., September 12, 1863, received only the pay of privates. A committee appointed by our legislature, which is now in session, to look after the matter, have requested me to write your Department for information. The above parties were duly commissioned by the governor of our State, and the information wanted is why these officers were paid as privates and all other officers of the regiment paid as officers.

An early response is respectfully asked.

Very respectfully,

E. L. WOOD,
Adjutant-General.

ADJUTANT-GENERAL, *Washington, D. C.*

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 469.

LEWIS W. WASHINGTON, DECEASED.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 1061.]

The Committee on War Claims, to whom was referred the bill (S. 1061) for the relief of the legal representatives of Lewis W. Washington, deceased, submit the following report:

The facts out of which this bill for relief arises will be found stated in a report made by the Committee on Claims of the Senate of the present Congress, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[Senate Report No. 98, Fifty-second Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 1061) for the relief of the legal representatives of Lewis W. Washington, have considered the same and report as follows:

We adopt the report hereto annexed made by this committee in the first session of the Fiftieth Congress, and again in the first session of Fifty-first Congress, and recommend the passage of the bill.

This bill passed the Senate in both the Fiftieth and the Fifty-first Congresses.

[Senate Report No. 1022, Fifty-first Congress, first session.]

This claim was before the Forty-eighth and Forty-ninth Congresses, and a favorable report was made to the House in the Forty-eighth Congress. No report was made either in the Senate or House in the Forty-ninth Congress.

The evidence upon which this claim rests, so far as the committee think proper to act upon it favorably, depends entirely upon the records of the Quartermaster-General's Department. In a letter addressed by Maj. B. C. Card, Quartermaster-General, U. S. Army, to Mrs. Lewis W. Washington, dated January 23, 1883, he says:

"The records show that the following quantities of hay were taken from the farm of Mr. Washington, and for which vouchers were given to one Mr. Ernest, who was Mr. Washington's manager, he being then in Europe: At one time 22,000 pounds of hay, and at another time, between August 9 and 18, 141,000 pounds of hay."

In a letter from Maj. Gen. Hancock, dated January 24, 1866, the dates and prices of this hay are given, to wit:

"July 25, 1863, 2,000 pounds of hay at $18 per ton; December 1, 1863, 20,000 pounds of hay at $16 per ton."

There is also a statement of the quartermaster at Harpers Ferry that, in addition to this hay, there was taken from the farm of Mr. Washington hay amounting to about $800. This last item is so indefinite as to its proof that the committee has been unable to consider it favorably. As to the other three items Gen. Rufus Ingalls,

Quartermaster-General, U. S. Army, under date of January 27, 1883, indorses the letter of B. C. Card, Quartermaster, U. S. Army, as follows:

"I believe the claim to be a meritorious one and I earnestly approve and recommend favorable consideration."

In the letter referred to, of January 23, 1883, the Quartermaster-General's Department declined to pay the same, on the ground that it was barred by the statutes of limitation, provided in the act of March 3, 1879, and recommended that Congress alone could grant relief. This ruling of the Department seems strange, as the evidence in the papers clearly shows that this hay was regularly purchased, and that a claim was made for it in 1864 and also in 1866.

This account was returned by the Quartermaster's Department to the quartermaster at Harpers Ferry, November 18, 1864, with the following indorsement by the Department:

"Returned; proof of loyalty required; also a statement from the quartermaster at Harpers Ferry setting forth the price of hay in that section of the country at the time of purchase, November 18, 1864. Received back November 25, 1864. Referred to Capt. George A. Flagg for payment, December 3, 1864."

The records of the Department show that this account has never been paid; and the only reason suggested why Capt. Flagg did not pay it was the absence of Mr. Washington in Europe. There are several affidavits to prove the loyalty of Mr. Washington during the war filed in the papers, but the committee feel satisfied that the best evidence upon that point was the return of the voucher and proof of loyalty, and the order to pay it, by the officers of the Government, in November, 1864.

The account would stand as follows:

2,000 pounds of hay, at $18 per ton	$18.00
20,000 pounds of hay, at $16 per ton	160.00
141,800 pounds of hay, at $18 per ton	1,276.20
Total	1,454.20

The committee would recommend that Senate bill 1725 be amended in the seventh and eighth lines by striking out the words "one thousand seven hundred and thirty-six dollars" and inserting in lieu thereof the words "one thousand four hundred and fifty-four dollars and twenty cents," and, as so amended, the bill is reported favorably, with the recommendation that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 470.

CHARLES MARKLEIN.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 106.]

The Committee on War Claims, to whom was referred the bill (H. R. 1088) for the relief of Charles Marklein, respectfully report:

This is a claim for merchandise alleged to have been taken from the claimant by United States troops during the late war. Claim stated at $15,027.

It seems to your committee that an investigation by the Court of Claims is a matter of necessity before intelligent action can be had on this claim, and therefore report herewith a resolution to that effect, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 471.

MONUMENT TO GEN. DANIEL MORGAN.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. O'FERRALL, from the Committee on the Library, submitted the following

REPORT:

[To accompany H. R. 482.]

The Committee on the Library, to whom was referred the bill (H. R. 482) to preserve the grave of Gen. Daniel Morgan and erect a monument over the same, respectfully submit the following report:

In the Forty-ninth Congress and in the Fiftieth Congress a similar bill was introduced and reported favorably.

The committee adopt so much of the preceding reports as is hereto annexed, and recommend the passage of the bill.

REPORT.

The committee do not think it necessary to dwell upon the great and distinguished services to his country of this revolutionary hero, the famous commander of the rifle corps; the hero of Quebec, Saratoga, and the Cowpens.

The nation, in its moments of gratitude, has passed unnoticed the incalculable obligations it owes to the memory of this brave and daring soldier who, in the recorded opinion of one of the most distinguished general officers of the eventful period of the revolution, "paved the way for the salvation of this country."

For well on to a century the Government which he did so much to establish has permitted his grave to remain unmarked, uncared for, and neglected. Many millions have been expended in the erection of monuments to the memory of other patriots, soldiers, and statesmen of the period in which he lived and since, but no attention has been given to the memory of Morgan.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 472.

MONUMENT TO MAJ. GEN. NATHANAEL GREENE.

FEBRUARY 26, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. O'FERRALL, from the Committee on the Library, submitted the following

REPORT:

[To accompany H. R. 3958.]

The Committee on the Library, to which was referred the bill (H. R. 1704) to provide for the erection of a monument to Maj. Gen. Nathanael Greene, on the battlefield of the battle of Guilford Court House, N. C., fought March 15, 1781, begs leave to submit the following report:

Gen. Nathanael Greene accomplished as much to establish the independence of the United States as any military leader in the Revolutionary war, Gen. Washington himself excepted.

He was one of the most confidential friends and advisers of Washington, and the results of his campaigns justified the confidence placed in him.

A citizen of Rhode Island, he was the savior of the Carolinas and Georgia. His name is revered in the whole Union, but especially in the South, where counties and cities and towns bear his honored name. On him were bestowed gifts and bounties as evidence of his greatness in war and goodness in peace.

No name, save that of the incomparable commander in chief of the American armies, is more illustrious than his.

The battle of Guilford Court House, fought on the 15th of March, 1781, was the most important engagement of his military career. It broke the power of British prestige in the South and sent Cornwallis, with his shattered forces, in precipitate retreat to Yorktown, where, on the 19th of October, 1781, he surrendered his whole army of 7,000 men to the combined American and French forces.

At Yorktown the Government has erected a costly and enduring monument to American valor and patriotism, but no emblem of a country's gratitude marks the spot where occurred the memorable event which made Yorktown possible.

Perhaps the story and sequences of this pivotal battle are best told by Mr. Benton, in his "Thirty Years in the American Senate," in these words:

The philosophy of history has not yet laid hold of the battle of Guilford, its consequences and effects. That battle made the capture at Yorktown. The events are told in every history; their connection and dependence in none. It broke up the plan of Cornwallis in the South, and changed the plan of Washington in the North. Cornwallis was to subdue the Southern States, and was doing it until Greene turned upon him at Guilford. Washington was occupied with Sir Henry Clinton, then in New York with 12,000 British troops. He had formed the heroic design to capture Clinton and his army (the French fleet coöperating) in that city, and thereby putting an end to the war. All his preparations were going on for that grand consum-

mation when he got the news of the battle of Guilford, the retreat of Cornwallis to Wilmington, his inability to keep the field in the South, and his return northward through the lower part of Virginia. He saw his advantage, an easier prey, and the same result if successful. Cornwallis or Clinton, either of them captured, would put an end to the war. Washington changed his plan, deceived Clinton, moved rapidly upon the weaker general, captured him and his 7,000 men, and ended the Revolutionary war. The battle of Guilford put that capture into Washington's hands; and thus Guilford and Yorktown became connected, and the philosophy of history shows their dependence, and that the lesser event was father to the greater.

The sum this bill proposes to appropriate is comparatively a trifle to a rich and powerful Government, but it will place an imperishable monument to him who for five years never left the hardships and dangers of the field to visit his family or home; no privation, or peril, or suffering deterred him from the daily discharge of duty to his country that these States might be free.

The nation will honor itself in honoring this hero, who was the child of the Revolution and its hope in the darkest hour of the nation's history.

In view of the foregoing facts the committee recommend the passage of the bill, with the following amendments:

Strike out in preamble "two or more acres," and insert "one acre."

In third line of first section of bill strike out "fifty" and insert "twenty-five."

In third line of second section strike out "two acres" and insert "land."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 473.

MESSENGER FOR THE COMMITTEE ON RIVERS AND HARBORS.

FEBRUARY 26, 1892.—Ordered to be printed.

Mr. RUSK, from the Committee on Accounts, submitted the following

REPORT:

The Committee on Accounts, to whom was referred the resolution, submitted by Mr. Blanchard on January 11, 1892, respectfully reports:

The public business intrusted to the consideration of the Committee on Rivers and Harbors embraces numerous and important matters, and owing to the fact that the House has given the above-named committee power to sit during the sessions of the House, that it is absolutely impossible to carry on the work of that committee without the assistance of a messenger, your committee therefore report said resolution with the recommendation that the same be amended by striking out the word "five" and inserting in lieu thereof the word "three," and that as amended the resolution be adopted.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 474.

EXTRA COPIES OF REPORT OF UNITED STATES BOARD ON GEOGRAPHIC NAMES.

FEBRUARY 26, 1892.—Ordered to be printed.

Mr. RICHARDSON, from the Committee on Printing, submitted the following

REPORT:

The Committee on Printing have considered the House concurrent resolution to print 10,000 extra copies of the Report of the United States Board on Geographic Names, and direct me to report same with the recommendation that it do pass. The estimated cost of same is $254.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 475.

J. STEPHEN WILCOXEN.

FEBRUARY 27, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following.

REPORT:

[To accompany H. R. 3389.]

The Committee on War Claims, to whom was referred the bill (H. R. 3389) for the relief of J. Stephen Wilcoxen, respectfully report:

The claimant seeks to be reimbursed for money paid by him for a substitute during the late war, he being exempt by law from being drafted. Claim stated at $300.

The records obtained from the War Department show that the claimant, Stephen Wilcoxen, was enrolled May 2, 1864, to serve one hundred days in Company A, One hundred and fifty-seventh Regiment Ohio National Guards, and was mustered out of service with the company, September 2, 1864.

Stephen Wilcoxen, enrolled for the draft in the Second ward, Steubenville, seventeenth district of Ohio, was drafted May 12, 1864. The draft register of this district, from which the records of drafts given above was obtained, bears the remark in pencil opposite the name of the drafted man, "one hundred days' service." This register does not show any other man of the same name drafted at the same time and place. The record of exemptions from the draft in this district for the week ending July 23, 1864, reports one Josiah S. Wilcoxen, with the same record of draft as in the case of Stephen Wilcoxen, exempted by reason of having furnished a substitute. It also appears that the name of this substitute was Franklin Weaver.

Section 10 of the act of Congress approved February 24, 1864, directs the exemption from enrollment and draft of "all persons actually in the military or naval service of the United States at the time of the draft." The Solicitor of the War Department, in an opinion given July 26, 1864, relative to an application for the exemption of members of the one hundred-days militia of the State of New York, under this provision of the law, held that—

> By the true construction of the act those persons only who shall be actually in the service of the United States at the time when their respective names shall be drafted will be exempted from that draft, if such exemption shall be duly claimed.

In a telegram to Lieut. Col. James Oakes, acting assistant provost-marshal-general of Illinois, dated September 25, 1864, the Provost-Marshal-General of the United States said: "One-hundred-day men actually in service when drafted are entitled to exemption."

The claimant enlisted under the name of Stephen Wilcoxen; that was the name he ordinarily went under, while his real name was J. Stephen Wilcoxen, as given when drafted.

Your committee are of the opinion that the claimant was not liable to draft at the time, and they report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 476.

SOCIETY OF AMERICAN FLORISTS.

FEBRUARY 27, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. YOUMANS, from the Committee on Agriculture, submitted the following

REPORT:

[To accompany H. R. 4437.]

The Committee on Agriculture, to whom was referred the bill (H. R. 4437) incorporating the Society of American Florists, submit the following report:

Your committee, having had under consideration the above-entitled bill, beg leave to report that they have examined the same and recommend that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 477.

CHAMPLAIN AND ST. LAWRENCE RAILROAD COMPANY.

FEBRUARY 27, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MITCHELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 4275.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4275) granting to the Champlain and St. Lawrence Railroad Company a right of way across the Fort Montgomery reservation, report the same back with the following amendments, and as thus amended recommend its passage:

Strike out all after the words "as now used," in fifth line, and insert:

Is hereby granted to the Champlain and St. Lawrence Railroad Company, a corporation created under the laws of the State of New York, in consideration of the payment to the United States Government of $250 per year in each September, commencing with September, 1891, and the further consideration that the said railroad company shall provide and maintain good and sufficient fences along each side of the right of way thus granted.

Add the proviso:

Provided, That the right to repeal this act, if the interests of the United States should so demand, is hereby expressly reserved.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 478.

OPENING TO SETTLEMENT LANDS ACQUIRED FROM CHEYENNE AND ARAPAHOE INDIANS.

FEBRUARY 27, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HARVEY, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 6596.]

Mr. Harvey, from the Committee on Indian Affairs, submits the following report:

The Committee on Indian Affairs, to whom was referred House bill 521, beg leave to report the accompanying bill as a substitute therefor.

Your committee find that the legislation proposed in said substitute will provide for the opening to settlement of the lands acquired under agreements made with the Cheyenne and Arapahoe Indians, under the same regulations and upon the same terms and conditions as are now provided by law for the settlement of the Sac and Fox and the Iowa reservations in the Territory of Oklahoma, excepting that provision is made for the sale of lots in the various county seats for the benefit of the school fund of the county, and a further innovation is made in that each settler is required to initiate his homestead entry by settlement on such homestead.

As said Cheyenne and Arapahoe reserve is likely to be opened to settlement early in the month of April, 1892, your committee deem it to be very important that said substitute should become a law prior to that time, and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 479.

OFFICE OF CONGRESSIONAL CORRESPONDENCE AND DEPARTMENT BUSINESS.

FEBRUARY 27, 1892.—Laid on the table and ordered to be printed

Mr. ELLIS, from the Committee on the Revision of the Laws, submitted the following

ADVERSE REPORT:

[To accompany H. R. 4007.]

The Committee on the Revision of the Laws, to whom was referred the bill (H. R. 4007) to establish an office of Congressional correspondence and Department business, have had the same under consideration and have come to an adverse conclusion thereon.

The measure proposes to establish what it designates as "the office of Congressional correspondence and Department business." This, as it seems to the committee, is at least a partial effort in the direction of providing clerks for members of Congress, a proposition which has often been considered by the House and always rejected.

Without entering upon a discussion as to the justice or propriety of providing clerks for the members of the House, it is, in the opinion of the committee, both inexpedient and unwise to increase the number of offices or multiply the number of employés of the House of Representatives in the manner or for the purposes proposed by this bill. It is not believed that such a system would prove either useful or satisfactory. Without expressing an opinion either as to the necessity or propriety of providing members of Congress with clerks, it is the opinion of the committee that that question should be determined directly by a vote of the members of the House rather than by the indirect methods proposed by this bill. It is, therefore, the unanimous opinion of the committee that the bill ought not to pass, and it is reported back to the House with the recommendation that it lie on the table.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 480.

LESTER NOBLE.

FEBRUARY 27, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1083.]

The Committee on War Claims, to whom was referred the bill (H. R. 1083) for the relief of Lester Noble, submit the following report:

This claim was presented to the Fifty-first Congress, and a favorable report was made thereon by the Committee on War Claims, to whom it was referred.

The investigation of the case leads your committee to substantially the same conclusions as those reached by the committee of the Fifty-first Congress. It is deemed unnecessary, therefore, to recapitulate the facts set forth in the report of that committee, a copy of said report being hereto attached and made a part of this report.

Your committee recommend that the bill referred to them do pass.

[House Report No. 3202, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 10778) for the the relief of Lester Noble, of Longmeadow, Mass., reports as follows:

The bill is claimed to provide for payment to one Lester Noble for lands occupied, and lumber and supplies taken, by the United States forces during the late war of the rebellion, and your committee upon investigation find the facts to be:

(1) That Lester Noble, now a resident of Longmeadow, Mass., was, during the years 1861 and 1862, a resident of the county of Washington, in the District of Columbia.

(2) That during the period named he was owner of a certain tract of land situated in said county and District and occupied the same as a place of residence.

(3) That the said Lester Noble, before, during, and since such period, has always been a loyal citizen of the United States.

(4) That during the years 1861-'62 the land of the said Lester Noble was occupied by the Army of the United States, and certain crops, wood, timber, and fences were taken and destroyed by said Army.

(5) That subsequent to such acts he, in conformity with the law, appointed a commission to appraise the damages sustained by him, and such commission made such appraisement and reported the same, with the amount due.

(6) That certain steps were taken by the said Noble to the end that his claim against the United States Government be paid, but that he has never received the amount of such claim.

(7) That the amount of damage done, and the amount now due said Noble, is $1,689.88, as itemized in the report of the commission, which it is asked to be made a part of this report.

Upon careful consideration of the evidence submitted, your committee is of the opinion that the amount named ($1,689.88) is due the said Lester Noble, and recommend that the bill be passed.

DISTRICT OF COLUMBIA, COUNTY OF WASHINGTON, *May 2, 1863.*

The undersigned, having been appointed by the annexed commission from Dr. Lester Noble to hold an inquest and ascertain the damage done to 33 acres of the lands and tenements of the said Noble by the United States troops in the years 1861 and 1862, also to the woods and fences, crops, etc., on said lands, by reason of the occupation of this section of the country by the United States for military purposes—in virtue of said commission we met on said lands, in the county of Washington, D. C., on the 1st day of May, 1863, and then proceeded to execute said commission by examining the premises and obtaining such facts as grew out of the nature of the case. And we certify and now make our return as follows, with an estimate of the amount of damages sustained by the said L. Noble:

Wood cut down on 11¾ acres of land at $75	$881.25
Fencing destroyed, 259 panels, at $1 per panel	259.00
Meadow land used for parade ground	300.00
Apples, 30 bushels, at 50 cents	15.00
Rifle pit cut through the place, 18 rods	234.63
Total	1,689.88

And we further certify and return that we are not, nor neither of us, of counsel for or related to any of the parties interested in said damages; that we are not, nor either of us, interested, directly or indirectly, in said finding, and that our said award is made without fear, favor, or partiality.

Given under our hands and seals.

[SEAL.] JAMES ANDERSON.
[SEAL.] THOMAS JOY.
[SEAL.] JOHN BURGESS.

Witness:
JNO. B. WILTBERGER.

The SECRETARY OF WAR.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 481.

ESTATE OF ISAAC W. TALKINGTON.

FEBRUARY 29, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PENDLETON, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 801.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 801) for the relief of the estate of Isaac W. Talkington, deceased, for money erroneously paid to the United States for certain lands, having had the same under consideration, report the same back with the recommendation that it pass.

For the facts reference is made to the report made in the Fifty-first Congress, as follows:

The facts on which this claim is based are found in two decisions by the Secretary of the Interior, involving the land for which it is alleged double payment was made, and out of which the right to repayment grows.

These decisions are Talkington's heirs *v.* Hempfling, reported in vol. 2, Land Decisions, p. 46, and the case of the heirs of Isaac W. Talkington, vol. 5, Land Decisions, p. 114.

It appears that Talkington made homestead entry No. 3886, February 15, 1870, of the north half of the southeast quarter of section 21, and that the entry was canceled December 1, 1876, for alleged relinquishment. It having been shown subsequently, however, that Talkington had commuted his entry and paid $2.50 cash per acre for the land, receiving therefor duplicate receipt No. 7419, dated August 20, 1872, and had died April 20, 1874, and that the relinquishment was fraudulent, the same bearing date June 5, 1876, more than two years after Talkington's death, his entry was reinstated April 5, 1878, and the heirs made new commutation proof, and paid $200, the purchase money, for said land.

Talkington made commutation proof and paid $200 for this land, and received a duplicate receipt under date of August 20, 1872, issued at Dardanelle, Ark., No. 7419, and signed by John C. Austin, receiver, the same being payment in full for the tract in question at the double minimum valuation; and that across the face of said receipt is noted, "Commuted from homestead entry No. 3886, dated February 14, 1870." And it also appears from the affidavit of one David Beasley, a neighbor of Talkington's, who was cognizant of all the circumstances of the case, barring the alleged relinquishment, that he accompanied Talkington to the local office, and was one of his witnesses in making his commutation proof; that the other witness is deceased; that he saw the usual papers in such case made by the proper officer, and saw $200 in cash paid to the receiver; and that the affiant furnished Talkington with a portion of the said sum.

It was for this sum that the heirs applied for repayment.

This application was finally rejected by the Secretary of the Interior by his decision of August 31, 1886, found in Land Decisions, vol. 5, page 114, above referred to, on the ground that the power of repayment by the Secretary of the Interior is limited and defined by a statute, to repayment of purchase money of land erroneously sold by the United States when from any cause the sale can not be confirmed. (Sec. 2362, R. S.)

The proof of double payment in this case is direct and positive.

The fact that the receiver made no return of this money, as he is required by law to do, does not contradict the fact of payment.

The receiver is a bonded officer, and the United States has a remedy against his bondsmen for the misappropriation of the money received for the sale of this land.

For the foregoing reasons your committee report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 482.

SALE OF STONE AND TIMBER LANDS, ETC.

FEBRUARY 29, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. MCRAE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 6656.]

The Committee on the Public Lands, to whom was referred the bills (H. R. 29 and H. R. 5142) relating to the disposal of timber and stone lands unfit for cultivation, respectfully report the same to the House and recommend that they be laid on the table and that the accompanying substitute be passed.

Upon examination of the act of June 3, 1878 (20 Stat., 89), it will be seen that the law only applies to California, Oregon, Nevada, and Washington, and relates only to public lands "valuable chiefly for timber, but unfit for cultivation." There are lands of such character in other public-land States, and the committee think this law should be made of general application.

By the act of March 2, 1889 (25 Stat., 854), all the public lands of the United States were withdrawn from private entry except those in the State of Missouri.

By the act of March 3, 1891 (26 Stat., 1095), the timber-culture and prëemption laws were repealed, leaving no other method for the disposition of nonarid agricultural lands except the homestead law.

This bill does not seek to make any change in that respect.

The committee believe that all lands fit for cultivation should be held for actual settlers and disposed of only under the homestead law. There are, however, some timber and stone lands in all the public-land States unfit for cultivation, and there should be some method by which they could be disposed of and used.

The most valuable lands of this character are in the States named in the said act of June 3, 1878.

Under the provisions of that law, which this bill would make of general application, these lands may be sold at the minimum price of $2.50 per acre, in quantities not exceeding 160 acres to any one person or association, after sixty days' notice of the application in a newspaper published nearest the land to be sold.

No land can be sold for speculation, nor can any sale be made until it is shown (1) that due notice has been given; (2) that the land is valuable chiefly for timber and unfit for cultivation; (3) that it is unoccupied and without improvements, either mining or agricultural, and that it apparently contains no mineral; (4) that the application is made in good faith to appropriate it to the exclusive use of the applicant, and (5) that the applicant has made no other application under this law.

APPENDIX.

AN ACT for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That surveyed public lands of the United States within the States of California, Oregon and Nevada and in Washington Territory, not included within military, Indian, or other reservations of the United States, valuable chiefly for timber, but unfit for cultivation, and which have not been offered at public sale according to law, may be sold to citizens of the United States, or persons who have declared their intention to become such, in quantities not exceeding one hundred and sixty acres to any one person or association of persons, at the minimum price of two dollars and fifty cents per acre; and lands valuable chiefly for stone may be sold on the same terms as timber lands: *Provided,* That nothing herein contained shall defeat or impair any bona-fide claim under any law of the United States, or authorize the sale of any mining claim, or the improvements of any bona-fide settler, or lands containing gold, silver, cinnabar, copper, or coal, or lands selected by the said States under any law of the United States donating lands for internal improvements, education, or other purposes: *And provided further,* That none of the rights conferred by the act approved July twenty-sixth, eighteen hundred and sixty-six, entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," shall be abrogated by this act; and all patents granted shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under and by the provisions of said act; and such rights shall be expressly reserved in any patent issued under this act.

SEC. 2. That any person desiring to avail himself of the provisions of this act shall file with the register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land Office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited; contains no mining or other improvements, except for ditch or canal purposes, where any such do exist, save such as were made by or belong to the applicant, nor, as deponent verily believes, any valuable deposit of gold, silver, cinnabar, copper, or coal; that deponent has made no other application under this act; that he does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which he might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself; which statement must be verified by the oath of the applicant before the register or the receiver of the land office within the district where the land is situated; and if any person taking such oath shall swear falsely in the premises, he shall be subject to all the pains and penalties of perjury, and shall forfeit the money which he may have paid for said lands, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona-fide purchasers, shall be null and void.

SEC. 3. That upon the filing of said statement, as provided in the second section of this act, the register of the land office shall post a notice of such application, embracing a description of the land by legal subdivisions, in his office, for a period of sixty days, and shall furnish the applicant a copy of the same for publication, at the expense of such applicant, in a newspaper published nearest the location of the premises, for a like period of time; and after the expiration of said sixty days, if no adverse claim shall have been filed, the person desiring to purchase shall furnish to the register of the land office satisfactory evidence, first, that said notice of the application prepared by the register as aforesaid was duly published in a newspaper as herein required; secondly, that the land is of the character contemplated in this act, unoccupied and without improvements, other than those excepted, either mining or agricultural, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, or coal; and upon payment to the proper officer of the purchase-money of said land, together with the fees of the register and the receiver, as provided for in case of mining claims in the twelfth section of the act approved May tenth, eighteen hundred and seventy-two, the applicant may be permitted to enter said tract, and, on the transmission to the General Land Office of the papers and testimony in the case, a patent shall issue thereon: *Provided,* That any person having a valid claim to any portion of the land may object, in writing, to the issuance of a patent to lands so held by him, stating the nature of his claim thereto; and evidence shall be taken, and the merits of said objection shall be determined by

the officers of the land office, subject to appeal, as in other land cases. Effect shall be given to the foregoing provisions of this act by regulations to be prescribed by the Commissioner of the General Land Office.

SEC. 4. That after the passage of this act it shall be unlawful to cut, or cause or procure to be cut, or wantonly destroy, any timber growing on any lands of the United States, in said States and Territory or remove, or cause to be removed, any timber from said public lands, with intent to export or dispose of the same; and no owner, master, or consignee of any vessel, or owner, director, or agent of any railroad, shall knowingly transport the same, or any lumber manufactured therefrom; and any person violating the provisions of this section shall be guilty of a misdemeanor, and, on conviction, shall be fined for every such offense a sum not less than one hundred nor more than one thousand dollars: *Provided*, That nothing herein contained shall prevent any miner or agriculturist from clearing his land in the ordinary working of his mining claim, or preparing his farm for tillage, or from taking the timber necessary to support his improvements, or the taking of timber for the use of the United States; and the penalties herein provided shall not take effect until ninety days after the passage of this act.

SEC. 5. That any person prosecuted in said States and Territory for violating section two thousand four hundred and sixty-one of the Revised Statutes of the United States who is not prosecuted for cutting timber for export from the United States, may be relieved from further prosecution and liability therefor upon payment, into the court wherein said action is pending, of the sum of two dollars and fifty cents per acre for all lands on which he shall have cut or caused to be cut timber, or removed or caused to be removed the same: *Provided*, That nothing contained in this section shall be construed as granting to the person hereby relieved the title to said lands for said payment; but he shall have the right to purchase the same upon the same terms and conditions as other persons, as provided hereinbefore in this act: *And further provided*, That all moneys collected under this act shall be covered into the Treasury of the United States. And section four thousand seven hundred and fifty-one of the Revised Statutes is hereby repealed, so far as it relates to the States and Territory herein named.

SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, June 3, 1878.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 483.

SETTLERS ON PUBLIC LANDS.

FEBRUARY 29, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. MCRAE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 5997.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 5997) to amend section 2 of an act approved May 14, 1880, being "An act for the relief of settlers on public lands," have had the same under consideration, and report the same back with the recommendation that it pass.

The only amendment sought to be made to the second section of the act of May 14, 1880, is contained in the last proviso of this bill, the balance thereof being in the language of the present statute. The right of contest conferred by said act, it will be observed, is a personal one, and the Secretary of the Interior has repeatedly very properly held that it ends with the death of the contestant. The bill now under consideration simply extends that right so that in case of the death of a contestant his heirs may continue the prosecution of the contest and reap the same benefits by reason thereof that their ancestor would have been entitled to if his death had not occurred. The grounds for extending this right to the heirs are just and equitable, and are fully and fairly set forth in the following communication from the honorable Secretary of the Interior, which is made a part of this report:

DEPARTMENT OF THE INTERIOR,
Washington, January 26, 1892.

SIR: My attention has been called to the apparent necessity of an amendment to the second section of the act of May 14, 1880 (21 Stats., 141), giving the rights of a contestant of a land claim to his heirs in the event of his death. The section referred to reads as follows:

"In all cases where any person has contested, paid the land-office fees, and procured the cancellation of any preëmption, homestead, or timber-culture entry, he shall be notified by the register of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter said lands: *Provided*, That said register shall be entitled to a fee of one dollar for the giving of such notice, to be paid by the contestant, and not to be reported."

Under this section the Department has frequently held the preference right provided for to be personal and that it dies with the contestant. (Morgan v. Doyle, 3 L. D., 5; Hurd v. Smith, 7 L. D., 491; Meyer v. Mitchell, 9 L. D., 287.) Such is now the recognized ruling of the Department.

In my judgment there is much force in what has been suggested, and it would be but an act of justice to the heirs of the contestant who has spent hundreds, and it may be thousands, of dollars in the prosecution of a contest against an unlawful entry and who is successful in securing a cancellation thereof that his heirs should reap the benefit of his endeavors.

So long as the statute encourages the prosecution of contests by allowing the con-

testant himself a preference right of entry for thirty days after notice of the cancellation of the entry secured by his furnishing testimony showing that it was illegal or fraudulent, I see no reason why it may not be amended in the respect suggested so as to allow the heirs to keep up the prosecution of the contest instituted by their ancestor, or reap the benefit of his success. Oftentimes years of investigation and hundreds of dollars are spent in the prosecution of these contests, and before the contestant reaps the full benefit thereof he dies, and his estate is despoiled of the amount of money which he has invested and his heirs derive no benefit therefrom. So long as the cancellation of the entry is secured by the success of the contestant, should he fail in his lifetime to secure the land in virtue of the preference right provided by statute, it should by right, in my judgment, descend to those who would inherit his estate.

We recognize both under a preëmption and homestead settlement the right of the heirs to complete the entry upon the death of the entryman, and that is in part due, of course, to the express provisions of the statute justifying such conclusion, and I know of no reason why this statute might not likewise provide in case of the contestant's death that the rights secured him by this act by the initiation of his proceeding may not descend to his heirs. Indeed, I think it would be wholesome legislation, just alike to a contestant and an entryman; for if the entryman had not complied with the law, and he has forfeited his claim to the tract on account of the vigilance of the contestant, I know of no persons who should reap the benefit to be derived therefrom, more entitled thereto, than the heirs of the successful operator.

I most respectfully recommend to your consideration the importance and propriety of the legislation suggested.

Very respectfully,

JOHN W. NOBLE,
Secretary.

CHAIRMAN COMMITTEE ON THE PUBLIC LANDS,
House of Representatives.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 484.

SETTLEMENT OF CLAIMS FOR ARREARS OF PAY AND BOUNTY.

FEBRUARY 29, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 1196.]

The Committee on War Claims, to whom was referred the bill (S. 1196) to facilitate the settlement of claims for arrears of pay and bounty, submit the following report:

The facts out of which this bill for relief arises will be found stated in a report made by the Committee on Military Affairs of the Senate of the present Congress, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[Senate Report No. 62, Fifty-second Congress, first session.]

The Committee on Military Affairs, to which was referred the bill (S. 1196) to facilitate the settlement of claims for arrears of pay and bounty, have duly considered the same and submit the following report:

This bill is simply to establish by law a method of business which was followed for many years, and up to January, 1882, when the Comptroller rendered a decision compelling the change, and requiring the Second Auditor to certify and transmit to the Second Comptroller every account, together with the papers and records relating thereto, audited by him, regardless whether his action allowed or disallowed any sum, or was the first, second, or third decision on the same account for the same items. This bill will simply authorize the Second Auditor to make a final decision in all claims for arrears of pay and bounty in all cases where his records and files show such claim or claims to have been already paid to the claimant himself, his widow, or heirs, subject to an appeal from his decision to Second Comptroller within six months.

The bill, if enacted into a law, will in the end save many thousands of dollars and much labor in the offices of Second Auditor and Second Comptroller, and greatly facilitate the final adjustment of all such claims. The bill is approved by the Second Auditor, the Second Comptroller, and the Secretary of the Treasury, as shown by the following:

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
Washington, D. C., January 18, 1892.

SIR: I have the honor to submit the following remarks on Senate bill 1196, Fifty-second Congress, first session, "to facilitate the settlement of claims for arrears of pay and bounty."

In my report for the fiscal year 1891, an extract from which is inclosed and made a part of these remarks, attention was invited to the large number of claims for arrears of pay and bounty presented to this office in cases where full payment has already been made, and to the fact that under a comparatively recent construction of section

277, Revised Statutes, such claims have to be formally certified to the Second Comptroller, although it may be patent that nothing is due from the United States. I suggested that the law might be so modified as to authorize the Second Auditor to disallow claims in cases where the records show that payment in full has been made, provided that claimants may, within six months, take an appeal to the Second Comptroller. A large amount of work would thus be obviated, not only in this office, but also in the office of the Second Comptroller, while the rights of parties would be respected by the proviso authorizing an appeal. The inclosed bill fully answers the purpose I had in view. In effect it legally construes section 277, Revised Statutes, as that section appears to have been practically construed for more than sixty-five years.

In my judgment the enactment of this bill into a law will materially facilitate the settlement of claims for arrears of pay and bounty, and its speedy passage is therefore earnestly advocated.

Respectfully, yours,

J. N. PATTERSON,
Auditor.

The SECRETARY OF THE TREASURY.

I concur in the above.

B. F. GILKESON,
Comptroller.

JANUARY 18, 1892.

Approved.

O. L. SPAULDING,
Acting Secretary

[Extract from report of the Second Auditor of the Treasury.]

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
Washington, D. C., October 16, 1891.

* * * * * * *

DISALLOWED CLAIMS.

Attention is again invited to the great number of claims for arrears of pay and bounty presented to this office in cases where payment in full has already been made. Out of 32,058 claims disposed of last year no fewer than 13,245 were disallowed, while balances were found due the claimants in 9,361 cases.

Prior to January, 1882, the Auditor summarily rejected a claim when it did not appear from the records that anything was due from the Government. If, however, the claimant was dissatisfied with the action of the Auditor, and requested that his case be referred to the Second Comptroller, it was referred accordingly. This practice of disposing of worthless claims terminated December 31, 1881, in consequence of a decision of the Second Comptroller that "when an account is presented to the Second Auditor, and the subject-matter of the account is within his jurisdiction, section 277 of the Revised Statutes requires him to certify the balance of the account and transmit the account, with the vouchers and certificate, to the Second Comptroller for his decision thereon. The duty of the Auditor under section 277 does not depend upon the amount found to be due. If the balance is nothing, the law requires it to be so certified, and the account, vouchers, and certificate are to be transmitted to the Comptroller" (Second Comptroller's Digest, Vol. 2, p. 147).

I present a tabular statement showing the number of claims allowed and disallowed since this decision went into effect:

Year.	Claims—		Year.	Claims—	
	Allowed.	Disallowed.		Allowed.	Disallowed.
1882	3,371	9,574	1888	7,895	10,666
1883	2,931	5,281	1889	6,654	8,686
1884	3,609	5,911	1890	9,223	10,360
1885	3,852	7,782	1891	9,361	13,245
1886	6,170	8,778			
1887	8,744	14,264	Total	61,810	94,547

It will be observed that out of 156,357 claims that have been formally certified to the Second Comptroller during the last ten years more than 60 per cent were cases in

which nothing was due the claimants, although there is no reason to suppose that the claims were not presented in good faith. The formal settlement of this large mass of worthless claims not only cost the Government tens of thousands of dollars which might just as well have been saved by the summary rejection of every demand where there was prima facie evidence of full payment, but it also delayed the adjustment of a large number of accounts where balances were really due the claimants. As there is no check upon the presentation of claims for arrears of pay and bounty, the Auditor must continue to receive and examine all such claims as have accrued since the organization of this office, in 1817, and must formally submit them to the Second Comptroller, with the vouchers pertaining thereto, for his action, as required by law and the decision above mentioned. If the soldier or his heirs have already been paid in full a simple statement of that fact will not suffice. In the words of the Second Comptroller, "If the balance is nothing the law requires it to be so certified, and the account, vouchers, and certificate are to be transmitted to the Comptroller." In my judgment a law which requires the formal certificate of two accounting officers to the fact that a soldier has been paid in full is susceptible of amendment, and I suggest that section 277 of the Revised Statutes may properly be so modified as to authorize the Second Auditor to disallow claims for arrears of pay and bounty in cases where the muster and pay rolls or other records of his office show that the soldier or his heirs have received all they are entitled to under the law; provided that if the claimants are dissatisfied they may, within six months, appeal to the Second Comptroller, otherwise the Auditor's action shall be deemed final and conclusive and be subject to revision only by Congress or the proper courts.

* * * * * * *

Respectfully, yours,

J. N. PATTERSON,
Auditor.

The SECRETARY OF THE TREASURY.

The saving of thousands of dollars and of much time and labor of employés and the speedy and final disposition of all claims for arrears of pay and bounty, only too long delayed, will be secured by the passage of this bill.

Your committee, therefore, report the bill back to the Senate and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 485.

WILLIAM S. WOODWARD.

FEBRUARY 29, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2398.]

The Committee on Pensions, to whom was referred the bill (H. R. 2398) granting a pension to William S. Woodward, have considered the same and report:

The claimant was (as shown by the records of the War Department) enrolled at Charleston, S. C., January 20, 1837, as a private, to serve three months in Capt. Durant's company, Harlee's Battalion, South Carolina Militia, and was mustered out of service with the company April, 20, 1837.

From the sworn statements of the claimant and Garlington Owens and Schley Owens, citizens of Brooks County, Ga., it appears that the claimant is now 77 years old, so infirm as to be unable to do any manual labor, in very bad financial condition, and with three helpless daughters dependent upon him for support.

There are many precedents for the allowance of the pension, and your committee therefore return the bill with a favorable recommendation.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 486.

BETSEY WORTHINGTON.

FEBRUARY 29, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5200.]

The Committee on Pensions, to whom was referred the bill (H. R. 5200) for the relief of Betsey Worthington, have considered the same and report:

The claimant is the widow of Ransford Worthington, who was a private of Capt. H. Day's company of Massachusetts Militia in the war of 1812. He was a pensioner on account of said service until his death, which occurred October 16, 1878, and his widow (this claimant) was then placed on the pension roll. She receives $12 per month.

The testimony of Dr. Judson W. Hastings, of Agawam, Mass., shows that the claimant is 96 years old, and without any means of support except her pension; also, that on November 13, 1891, she suffered a fracture of left thigh and has since required the constant services of nurses day and night, being unable to move herself in bed without help.

The doctor also testifies that the claimant has other physical troubles due to weakness and old age which add to the difficulty of caring for her and that she is a worthy woman who gave two sons to the Union Army.

The above testimony is fully corroborated under oath by Charles W. Hastings, postmaster of Agawam, Mass.

The passage of the bill is recommended with an amendment fixing the rate of pension at $25 per month and showing that the same is to be allowed in lieu of the amount n w drawn by her.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 487.

GEORGE W. WHITE.

FEBRUARY 29, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3767.]

The Committee of Pensions, to whom was referred the bill (H. R. 3767) increasing the pension of George W. White, have considered the same and respectfully report as follows:

The claimant was a private in Company B, Gray's Battalion Arkansas Volunteers, and served nine months in the war with Mexico. He is now pensioned at $8 per month under the Mexican war service pension act of January 29, 1887.

In his application for relief by special act of Congress the claimant swears that he is 85 years old and that his wife is 88 years old and in very feeble health, confined to her bed most of the time. He further avers that he owns no personal property whatever, except household goods, and that his pension constitutes his sole income.

Hon. Case Broderick, a Representative in Congress from Kansas, certifies that he has been acquainted with claimant for twenty-five years and knows the facts stated by the claimant to be true. Also that his sole property consists of 20 acres of ground in the country, with very cheap improvements thereon, and that he has no income for himself and aged wife except his said pension of $8 per month.

The passage of the bill is respectfully recommended, with an amendment fixing the rate of pension at $20 per month.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 488.

JONATHAN RAMEY.

FEBRUARY 29, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3587.]

The Committee on Pensions, to whom was referred the bill (H. R. 3587) for the relief of Jonathan Ramey, have considered the same and report:

The claimant was a private in Company B, First Kentucky Cavalry, and served from June 6, 1846, to June 7, 1847, in the war with Mexico.

On January 28, 1875, he filed an application for pension, declaring that at Buena Vista, Mexico, on the 23d of February, 1847, his horse fell with him and injured his foot. This claim was rejected by the Pension Bureau, but for what cause does not clearly appear—presumably, however, because the records of the War Department contained no mention of the injury, and the claimant furnished no proof in support of the claim.

Subsequently his name was placed on the pension roll at $8 per month, under the Mexican war survivors' act of January 29, 1887.

In his petition for relief by special act of Congress Mr. Ramey declares that he received the injury above referred to at the battle of Buena Vista, and that the right foot and toes were crushed in such a manner as to cause varicose veins and result in lameness from which he has suffered ever since.

Mathew F. Minor testifies that he served with the claimant in the Mexican war, and saw him just after the battle of Buena Vista with his right foot so swollen that he could not wear his shoe, and witness understood at the time that the claimant received said injury in the manner heretofore described. Mr. Minor also testifies that the claimant is so lame as to necessitate the use of a cane.

James A. Vance and William Clemmons, citizens of Perryville, Ark., testify to an acquaintance of several years with the claimant and know that he has always been lame in right foot and leg, and they have always understood that he received his injuries in the alleged manner. They further testify that he is unable to earn his support by manual labor and that he has no property or income aside from his pension of $8 per month.

Two petitions asking that the relief prayed for may be granted were before your committee. One of these is signed by 224 citizens of Perry County, Ark., and the other, which recites that the claimant has no property of any consequence and is entirely unable to earn a living by

reason of age and physical condition, is signed by 65 citizens of the same county and State.

After careful consideration your committee recommend that the bill be passed, amended, however, so as to fix the rate of pension at $20 per month, the same to begin from the date of the passage of the act and to be in lieu of the amount now drawn by the beneficiary.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 489.

HARMON H. McELVEY.

FEBRUARY 29, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5342.]

The Committee on Pensions, to whom was referred the bill (H. R. 5342) granting a pension to Harmon H. McElvey, have given the same due consideration and respectfully report as follows:

The records of the War Department show that Harmon H. McElvey was enrolled December 10, 1840, in Capt. McElvey's company, First Florida Mounted Militia, Florida war, to serve three months, and that he was mustered out of service with the company March 14, 1841, at Charles Ferry, East Florida, as sergeant.

Nathaniel Bradford and J. J. Sapp, citizens of Mitchell County, Ga., testify that they are well acquainted with the claimant and know that he is debilitated and enfeebled by age and infirmity, and that he has no means of support, but is dependent for a living upon those who are not legally bound to care for him.

The passage of the bill is recommended.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 490.

ELIZA M. BOATRIGHT.

FEBRUARY 29, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENDERSON, of North Carolina, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5734.]

The Committee on Pensions, to whom was referred the bill (H. R. 5734) granting a pension to Eliza M. Boatright, have considered the same and report.

Mrs. Boatright is the widow of Alexander M. Boatright, who served as a private in Capt. Alexander M. Houston's company, Second Regiment, Second Brigade of Illinois Mounted Volunteers, Black Hawk war, which was called into service by proclamation of the governor dated May 15, 1832, and marched from home June 2, 1832, and was mustered out of service August 15, 1832.

The muster roll of the company (the only roll of the organization on file at the War Department) reports Alexander Boatright, a private, enlisted in Crawford County for ninety days, and furloughed at Fort Hamilton "to go home August 1."

The marriage of the claimant to the said soldier is shown by a verified copy of the public record of the same, and the fact and date (August 21, 1890) of the soldier's death are shown by the testimony of R. L. Weddington, of Brazos, Tex.

J. A. Myers and R. L. Weddington, of the above-named place, testify that the only property owned by the claimant is a little home at Bryan, Tex., worth about $800, and that she has to depend upon a married son for support. She was married to the soldier in 1850.

Your committee, believing the bill to be meritorious, respectfully recommend its passage, with an amendment fixing the rate of pension at $15 per month.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 491.

MARY GATLIN.

FEBRUARY 29, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENDERSON, of North Carolina, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5364.]

The Committee on Pensions, to whom was referred the bill (H. R. 5364) granting a pension to Mary Gatlin, have considered the same and report as follows:

The husband of the claimant, John H. Gatlin, was a member of Capt. Swinney's company, Douglass Battalion of Georgia Volunteers, Indian war of 1836; entered service March 3, 1836, and was mustered out June 3, 1836.

It is shown by the sworn testimony of L. A. Houser, B. F. Avant, and W. M. Boon, disinterested citizens of Houston County, Ga., that she is 70 years old, and totally disabled by rheumatism in the right shoulder; also, that she is wholly dependent on her relatives for support, who are themselves unable to support her.

In view of the claimant's great age and necessities, and in the light of numerous precedents for the proposed legislation, your committee regard the case as a proper one for the allowance and relief prayed for, and the passage of the bill is therefore recommended.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 492.

DAVID C. BARROW.

FEBRUARY 29, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENDERSON, of North Carolina, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5363.]

The Committee on Pensions, to whom was referred the bill (H. R. 5363) granting a pension to David C. Barrow, have considered the same and report as follows:

The claimant was a member of Capt. Seymour's company, Cooper's Battalion Georgia Volunteers, Indian war of 1836. He was enrolled February 18, 1836, to serve three months, and is reported on the muster-out roll of said company, dated May 15, 1836, as having been discharged at Picolata March 19.

It is shown by the sworn testimony of John A. Cobb, a citizen of Sumner County, Ga., that claimant is 76 years of age, infirm from age, and his financial condition is such that he needs for his support the amount asked for as a pension.

The passage of the bill is respectfully recommended by the committee.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 493.

AARON V. HAMILTON.

FEBRUARY 29, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. NORTON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5383.]

The Committee on Pensions, to whom was referred the bill (H. R. 5383) increasing the pension of Aaron V. Hamilton, have considered the same and respectfully report as follows:

The claimant was a private in Capt. Gibson's company, Fremont's Battalion, California Volunteers, and served from October 7, 1846, to November 11, 1847, in the war with Mexico. He is now receiving a pension at $8 per month under the Mexican war service pension act of January 29, 1887.

In support of the bill the gentleman who introduced the same in the House certifies from personal knowledge that Mr. Hamilton is 72 years old, a broken-down, decrepit old man, wholly incapacitated for manual labor; also, that he is without property, real or personal, and has no income except the small pension he is now drawing. Further, that he has no family except a married daughter whose financial condition is such that she is unable to assist her father, and he is now supported by living around among his neighbors and friends; also, that he is a sober and worthy man.

The passage of the bill is recommended.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 494.

FREDERICK MEREDITH.

FEBRUARY 29, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. NORTON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5330.]

The Committee on Pensions, to whom was referred the bill (H. R. 5330) granting a pension to Frederick Meredith, have considered the same and respectfully report as follows:

Relative to the service of this soldier the War Department, under date of February 19, 1892, reports as follows:

The muster-out roll of Capt. James Hall's company, Black Hawk war, Illinois volunteers, dated August 13, 1832, the only record of the organization on file, reports Frederick Meredith, a private, enlisted June 16, 1832, in Hamilton County, to serve three months, "absent on furlough."

No further record of this soldier has been discovered.

In his petition for relief by special act of Congress, Mr. Meredith states under oath that he served three months in the Indian war and was granted bounty land therefor. He further states that he is now 82 years old, infirm, and without means of support.

Renard Napier and George N. Woodcocke, citizens of Franklin County, Mo., corroborate under oath the claimant's statements relative to age, infirmity, and destitution, and it is also shown that he is a man of temperate and industrious habits.

Your committee respectfully recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 495.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

MARCH 1, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DOCKERY, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany H. R. 6746.]

The Committee on Appropriations, in presenting the bill making appropriations for the support of the government of the District of Columbia for the fiscal year ending June 30, 1893, submit the following in explanation thereof:

The itemized estimates upon which the bill is based will be found on pages 236 to 248 of the Book of Estimates and, exclusive of the water department, aggregate $6,313,925.97, one-half of which amount, or so much thereof as Congress may appropriate, is required to be drawn from the revenues of the General Government, and the remaining one-half to be levied upon the taxable property and privileges in the District of Columbia other than the property of the United States and the District of Columbia, pursuant to section 3 of the act approved June 11, 1878, entitled "An act providing a permanent form of government for the District of Columbia." (Statutes at Large, Vol. 20, p. 102.)

The Secretary of the Treasury, in the Book of Estimates, p. 248, states that he "disapproves of the total amount as submitted by the Commissioners, and recommends that the total appropriation for said expenses for the next fiscal year be limited to the amount appropriated for the current year;" therefore the sum which he recommends and includes in the sum total of estimates of appropriations for 1893 is, after deducting $302,998.20 appropriated for 1892 from the water revenues for the water department, $5,299,126.97, which is, in fact, $5,000 more than was appropriated for the fiscal year 1892.

In the light of this recommendation the committee would not have felt warranted under any circumstances in exceeding the sum named, notwithstanding the probable revenues of the District might justify a larger sum. Accordingly, the total amount recommended to be appropriated for the general expenses of the District of Columbia for the fiscal year 1893 in the bill submitted herewith is, exclusive of the water department, $4,726,526.97, of which sum the General Government is required to pay $2,363,263.48, that being the one-half of the whole amount. The whole sum recommended is $1,587,399 less than the itemized estimates and $572,600 less than the Secretary of the Treasury recommends.

The amount appropriated for the general expenses of the District of Columbia for the current fiscal year is $5,294,126.97, being $567,600, more than is recommended in the accompanying bill for 1893, and the whole amount recommended in the bill, including the water department, is $609,569.90 less than was appropriated for the current fiscal year.

The amount recommended for the water department and payable from the water revenues is $261,028.30. The amount appropriated for the same purposes for the current fiscal year is $302,998.20, showing a reduction of $41,969.90.

The total revenues of the District of Columbia for the fiscal year *1893 will be, as estimated* by the Commissioners $3,160,645.51, and with-

out reference to the obligations imposed upon the District by the acts of March 2, 1889, and September 27, 1890, establishing the National Zoölogical Park and the Rock Creek Park, the measure of which is not now ascertainable, for the fiscal year 1893, is $797,382.03 more than the one-half of the appropriations made in the accompanying bills for general expenses of the District of Columbia, and on account of water revenues it is estimated there will be a surplus of $86,342.66. In order that so large a sum as this, drawn from the taxpayers of the District, may not lie idle in the Treasury, the following provision for the disposition thereof is recommended on page 39 of the bill:

SEC. 3. That the Treasurer of the United States is hereby directed and authorized to apply such portion as may be deemed expedient of any surplus which may remain at the close of the fiscal year 1893, and of each fiscal year thereafter, of the general revenues of the District of Columbia in excess of one-half of those appropriations payable equally out of the revenues of the District and the United States, together with any surplus revenues of the water department, to the payment of the balances yet remaining unpaid of the debts of the District of Columbia created by the act approved July 15, 1882, entitled "An act to increase the water supply of the city of Washington, and for other purposes," and of section 2 of the District of Columbia appropriation act, approved March 3, 1891: *Provided*, That the amount of said surplus shall be first reported to the Commissioners of the District of Columbia and the Treasurer of the United States by the First Comptroller of the Treasury when called upon to do so.

Under a general clause which has been included in the District of Columbia appropriation acts for many years, the Commissioners are authorized to employ and pay from general appropriations many persons and at various rates of compensation. With a view to hereafter making specific provision for all permanent employés of the District, the following provision is recommended in the bill on page 8, lines 12 to 24, inclusive:

That the Commissioners of the District of Columbia shall embrace in the estimates of appropriations for the support of the government of the District of Columbia for the fiscal year 1894 estimates for all officers, overseers, inspectors, clerks, and other employés, except day laborers, other than those now specifically appropriated for, whom they deem to be necessary to an efficient and economical execution of the appropriations for which they may submit estimates for sewer, street, or road work, or the construction and repair of buildings and bridges, or any other work, specifying the number of persons to be so employed, the office in which they would be employed, the period of employment, and the rate of compensation to each.

By the act of March 3, 1891, an additional judge at $3,000, deputy clerk at $1,500, and deputy marshal and bailiff at $3 per day each were authorized to be appointed for the police court, and their salaries, except for the deputy marshal, for the balance of the fiscal year 1891, were provided for in the deficiency act of the last session, but nothing was appropriated therefor or for the expenses of the jury authorized by said act for the police court for 1892. The police court thus augmented has been in operation during the current fiscal year, and estimates to meet the deficiency occasioned by the failure of the last Congress to provide for its expenses are now before the Committee on Appropriations. Therefore it will be seen that the increase in the accompanying bill on account of police-court salaries and expenses, as compared with the appropriations for 1892, is an apparent increase only and not an actual one.

On page 10, the following provision is recommended:

That whoever intends to present to Congress a petition or bill for an act of incorporation, or for an alteration or extension of the charter of a corporation in the District of Columbia, or for any special privileges in said District, shall give notice of such intention by publishing a copy of the petition or bill at least once a week for four successive weeks in a newspaper published in the District of Columbia, the last of said publications to be made at least fourteen days prior to the presentation of such petition or bill. Such newspaper shall be designated by the petitioner and approved by the Commissioners of the District of Columbia.

The following table explains in detail the bill as compared with the estimates for 1893 and the appropriations for 1892:

Comparative statement showing the estimates for 1893, the appropriations for 1892, and the amounts recommended in the accompanying bill for 1893.

Object.	Estimates for 1893.		Appropriations for 1892.		Recommended for 1893.	
	Amounts.	No. of salaries.	Amounts.	No. of salaries.	Amounts.	No. of salaries.
Salaries:						
Executive office	$46,847.00	38	$43,578.00	34	$44,047.00	36
Assessor's office	32,600.00	22	26,000.00	17	22,250.00	17
Collector's office	17,000.00	11	17,200.00	11	17,200.00	11
Auditor's office	17,900.00	12	16,700.00	11	16,700.00	11
Attorney's office	9,000.00	5	8,600.00	5	8,600.00	5
Sinking-fund office	2,400.00	2	2,400.00	2	2,400.00	2
Coroner's office	1,800.00	1	1,800.00	1	1,800.00	1
Market masters	4,300.00	3	3,600.00	3	3,600.00	3
Engineer's office	58,340.00	50	42,250.00	37	41,530.00	35
Board of examiners steam engineers	900.00	3	900.00	3	900.00	3
Sewer division	29,132.00	25	22,502.00	21	22,502.00	21
Superintendent of charities	3,000.00	1	3,000.00	1	2,500.00	1
Miscellaneous:						
Contingent expenses, District offices	26,000.00		24,000.00		24,000.00	
Contingent expenses, stables engineer department	6,500.00		6,000.00		6,000.00	
Rent of District offices	4,500.00		3,600.00		3,600.00	
Rent of property yards	1,000.00		1,000.00		300.00	
Rent of attorney's office	100.00		100.00			
Collecting overdue personal taxes	2,000.00		2,000.00		1,750.00	
Judicial expenses	3,000.00		2,500.00		1,000.00	
Contingent expenses, coroner's office	1,400.00		1,200.00		950.00	
Fileholders, office register of wills	250.00					
Advertising, general	3,500.00		3,000.00		2,900.00	
Advertising, notice of taxes in arrears	8,000.00		5,500.00		5,500.00	
Incidental expenses, superintendent of charities	500.00					
Reproduction of dockets, register of wills			1,000.00			

Comparative statement showing the estimates for 1893, the appropriations for 1892, etc.—Continued.

Object.	Estimates for 1893.		Appropriations for 1892.		Recommended for 1893.	
	Amounts.	No. of salaries.	Amounts.	No. of salaries.	Amounts.	No. of salaries.
Miscellaneous—Continued:						
Preparing arrears of taxes on real property	.....	.....	$6,000.00	.....	$1,000.00	.....
Horse, wagon, etc., disbursing clerk	.....	.....	800.00	.....	.....	.....
Total, salaries and miscellaneous	$279,969.00	173	245,230.00	146	231,029.00	146
Permit work, alleys, sidewalks, and sewers	165,000.00	.....	165,000.00	.....	165,000.00	.....
Permit work, roadways of streets	25,000.00	.....	50,000.00	.....	.....	.....
Improvements and repairs:						
Work on sundry streets and avenues	570,000.00	.....	400,000.00	.....	200,000.00	.....
Grading streets, alleys, and roads	20,000.00	.....	20,000.00	.....	2,000.00	.....
Repairs to pavements	150,000.00	.....	150,000.00	.....	150,000.00	.....
Plats of subdivisions	5,000.00	.....	5,000.00	.....	4,000.00	.....
Total, improvements and repairs	745,000.00	.....	575,000.00	.....	356,000.00	.....
Sewers:						
Cleaning and repairing sewers and basins	45,000.00	.....	43,000.00	.....	40,000.00	.....
Replacing obstructed sewers	25,000.00	.....	25,000.00	.....	20,000.00	.....
Main and pipe sewers	452,000.00	.....	119,000.00	.....	65,000.00	.....
New main intercepting sewer	.....	.....	.....	.....	60,000.00	.....
Suburban sewers	112,000.00	.....	75,000.00	.....	58,300.00	.....
Gauging sewers and rainfall	2,500.00	.....	2,500.00	.....	2,500.00	.....
Condemnation of rights of way	10,000.00	.....	8,000.00	.....	3,500.00	.....
Total sewers	646,500.00	.....	272,500.00	.....	249,300.00	.....
Streets:						
Repairs, streets, avenues, and alleys	45,000.00	.....	45,000.00	.....	40,000.00	.....
Repairs, county roads	60,000.00	.....	60,000.00	.....	50,000.00	.....
Construction, county roads	92,000.00	.....	127,000.00	.....	41,500.00	.....

Suburban streets	10,000.00					
Condemnation streets, roads, and alleys	5,000.00		10,000.00		2,500.00	
Sprinkling, sweeping, and cleaning	145,000.00		115,000.00		103,000.00	
Parking commission	25,000.00		19,000.00		18,000.00	
Lighting, gas or oil	157,000.00		141,000.00		141,000.00	
Lighting, electric	70,000.00		59,500.00		59,500.00	
Harbor and river front	2,600.00		2,600.00		2,600.00	
Public scales	250.00		1,250.00		50.00	
Public pumps	5,000.00		5,000.00		5,000.00	
Total, streets	616,850.00		585,350.00		463,150.00	
Bridges	25,300.00		20,000.00		19,000.00	
Numbering houses			900.00			
Washington Aqueduct	20,000.00		20,000.00		20,000.00	
Public schools:						
For officers	9,200.00	7	8,050.00	6	8,050.00	6
For teachers	613,075.00	895	578,800.00	845	612,400.00	895
For night schools	6,800.00		6,600.00		6,500.00	
For janitors and care of buildings	52,676.00	82	47,756.00	77	51,356.00	82
Rent of school buildings	12,500.00		10,000.00		12,000.00	
Repairs and improvements to buildings	30,000.00		24,000.00		26,000.00	
Tools, etc., for manual training	10,000.00		10,000.00		10,000.00	
Fuel	32,000.00		29,000.00		30,000.00	
Furniture for new buildings	6,000.00		12,000.00		1,600.00	
Contingent expenses	32,000.00		27,000.00		30,000.00	
Text-books and school supplies	35,000.00		25,000.00		12,000.00	
New buildings and sites	149,500.00		220,000.00		38,000.00	
Total, public schools	988,751.00	984	998,206.00	928	837,906.00	983
Metropolitan police:						
For salaries	502,560.00	510	467,880.00	473	468,080.00	473
Miscellaneous expenses	25,000.00		22,343.00		21,700.00	
Buildings	6,000.00		29,000.00		6,000.00	
Total Metropolitan police	533,560.00	510	519,223.00	473	495,780.00	

Comparative statement showing the estimates for 1893, the appropriations for 1892, etc.—Continued.

Object.	Estimates for 1893.		Appropriations for 1892.		Recommended for 1893.	
	Amounts.	No. of salaries.	Amounts.	No. of salaries.	Amounts.	No. of salaries.
Fire department:						
For salaries	$117,900.00	140	$109,220.00	130	109,220.00	130
Miscellaneous expenses	65,620.00	.....	33,650.00	.....	32,600.00	.....
Total fire department	183,520.00	140	142,870.00	130	141,820.00	130
Telegraph and telephone service:						
For salaries	11,520.00	14	10,800.00	13	10,800.00	13
General supplies	18,000.00	.....	8,000.00	.....	8,000.00	.....
New instruments	3,500.00	.....	.....	.....	2,700.00	.....
Total telegraph and telephone service	33,020.00	14	18,800.00	13	21,500.00	13
Health department:						
For salaries	29,080.00	23	25,740.00	19	25,740.00	19
Removal of garbage	45,000.00	.....	24,000.00	.....	24,400.00	.....
Rent	1,120.00	.....	1,120.00	.....	1,120.00	.....
Prevention of scarlet fever and diphtheria	5,000.00	.....	5,000.00	.....	1,500.00	.....
Total health department	80,200.00	23	55,860.00	19	52,760.00	19
Courts:						
For salaries	16,296.00	11	9,624.00	7	15,357.00	11
Miscellaneous expenses	30,100.00	.....	7,300.00	.....	29,300.00	.....
Defending suits in claims	2,500.00	.....	2,500.00	.....	.....	.....
Writs of lunacy	2,000.00	.....	2,000.00	.....	2,000.00	.....
Total courts	50,896.00	11	21,424.00	7	46,657.00	11
For interest and sinking fund	1,213,947.97	.....	1,213,947.97	.....	1,213,947.97	.....

Emergency fund	5,000.00		5,000.00		5,000.00	
Exhibit at World's Columbian Exposition	50,000.00					
Municipal building	150,000.00					
Reformatories and prisons:						
Support of convicts	30,000.00		21,000.00		21,000.00	
Transportation of paupers and prisoners	4,000.00		4,000.00		4,000.00	
Washington asylum, salaries	15,110.00	39	13,875.00	36	13,875.00	36
Miscellaneous expenses	60,000.00		50,000.00		45,000.00	
Buildings and grounds	9,350.00		6,850.00		4,350.00	
Reform school, salaries	14,252.00	28	14,252.00	28	14,252.00	28
Miscellaneous expenses	26,000.00		26,000.00		26,000.00	
Buildings and grounds	500.00		5,400.00			
Total, reformatories and prisons	159,212.00	67	141,377.00	64	128,477.00	64
For support of the insane	94,700.00		90,570.00		94,700.00	
For charities:						
Relief of the poor	16,000.00		16,000.00		16,000.00	
Temporary support of indigent persons			5,400.00		5,400.00	
Municipal lodging house	8,000.00					
Women's Christian Association	4,250.00		4,000.00		4,000.00	
Central Dispensary and Emergency Hospital	3,500.00					
Columbia Hospital and Lying-in Asylum	20,000,00		20,000.00		20,000.00	
Children's Hospital	10,000.00		10,000.00		10,000.00	
National Homeopathic Hospital	7,000.00		9,000.00		7,000.00	
Church Orphanage Association	2,000.00		2,000.00		2,000.00	
German Orphan Asylum	2,000.00		6,000.00		2,000.00	
National Association for Destitute Colored Women and Children	10,000.00		10,000.00		10,000.00	
Colored Foundlings	4,000.00		2,000.00		3,000.00	
St. Ann's Infant Asylum	7,000.00		6,500.00		6,500.00	
Washington Hospital for Foundlings	6,000.00		6,000.00		6,000.00	
Association for Works of Mercy	2,000.00		3,000.00		2,000.00	
National Temperance Home			2,000.00		2,000.00	
St. Joseph's Asylum					500.00	
Women's Union Christian Association					250.00	
House of the Good Shepherd	3,000.00		3,000.00		3,000.00	
Industrial Home School	13,000.00		11,500.00		13,000.00	

Comparative statement showing the estimates for 1893, the appropriations for 1892, etc.—Continued.

Object.	Estimates for 1893.		Appropriations for 1892.		Recommended for 1893.	
	Amounts.	No. of salaries.	Amounts.	No. of salaries.	Amounts.	No. of salaries.
For charities—Continued.						
Reform School for Girls	$75,000.00	.....	.....	.....	$35,000.00	.....
St. Rose Industrial School	2,500.00	.....	$2,500.00	.....	2,500.00	.....
Instruction of the deaf and dumb	10,500.00	.....	10,500.00	.....	10,500.00	.....
Education of feeble-minded children	3,400.00	.....	3,400.00	.....	4,300.00	.....
Total, charities	209,150.00	.....	132,800.00	.....	164,950.00	.....
For the militia of the District of Columbia	38,350.00	1	20,069.00	1	19,550.00	1
Grand total, exclusive of water department	6,313,925.97	1,923	5,294,126.97	1,781	4,726,526.97	1,840
Amount payable from United States Treasury	3,156,962,98	.....	2,647,063.48	.....	2,363,263.48	.....
Water department:						
Salaries	52,422.00	57	40,656.00	48	40,656.00	48
Contingent expenses	3,000.00	.....	2,500.00	.....	2,500.00	.....
Extra clerical services	.....	.....	1,050.00	.....	.....	.....
Providing numerical books for county	.....	.....	175.00	.....	.....	.....
Repairs and miscellaneous expenses	100,000.00	.....	130,000.00	.....	85,000.00	.....
Interest and sinking fund, water-stock bonds	44,610.00	.....	44,610.00	.....	44,610.00	.....
Interest on account of increased water supply	29,171.77	.....	30,499.43	.....	23,683.47	.....
Sinking fund on account of increased water supply	54,021.80	.....	53,507.77	.....	43,864.94	.....
Interest on account of 48-inch and Fourteenth street mains	8,877.38	.....	.....	.....	8,877.38	.....
Installment on account of 48-inch and Fourteenth street mains	11,836.51	.....	.....	.....	11,836.51	.....
New high-service system	100,000.00	.....	.....	.....	.....	.....
Total water department	403,939.46	57	302,998.20	48	261,028.30	48
Grand total, including water department	6,717,865.43	1,980	5,597,125.17	1,829	4,987,555.27	1,888

APPENDIX.

REGISTER OF WILLS.

Books in Office of Register of Wills.

	Number volumes.
Will books from 1 to	31
Proceedings from 1 to	20
Administration bond books	30
Guardian bond books	8
Administration docket books	17
Guardian docket books	8
Inventories and sales books	41
Apprenticeship books	4
Account of executors' books	45
Receipt books	2
Guardian sale, orphans' estate books	2
Two docket of claims books	2
Index books—	
To wills	3
To administrations	3
To guardianships	3
	219

Also 728 file-holders.

These books date from 1801 to 1892.

Receipts and disbursements from September 1, 1890, to August 31, 1891, one year from date of my appointment.

Receipts	$8,771.44
Expenses	4,496.41
Balance to credit of the Register	4,275.03
	8,771.44

L. P. WRIGHT,
Register.

OFFICE REGISTER OF WILLS, *Washington, D. C.*

OFFICE REGISTER OF WILLS,
Washington, D. C., February 19, 1892.

THE COMMITTEE ON APPROPRIATIONS:

GENTLEMEN: In compliance with your request I will give you the namesof my employés and their salary, as follows:

Monthly pay roll.

M. J. Griffith, deputy	$125.00
Smith Thompson, jr., clerk	75.00
Elias R. Levy, clerk	70.00
Miss C. Dawes, clerk	40.00
Mrs. F. D. M. Evans, clerk	40.00
John E. Thomas, messenger	35.00
Total	385.00

Making a total of $4,620 for the fiscal year 1892.

Mr. Griffith is a notary public and makes that fee, which amounts to about $300 per year, extra. Mr. Thompson and Mr. Levy are appraisers of this court, and make about $300 a year each. This service is performed after office hours. If this

was not taken into consideration I would have to pay these gentlemen more for the services they perform. If there is any more information you desire I will be pleased to give it.

Very respectfully,

L. P. WRIGHT,
Register of Wills.

The COMMITTEE ON APPROPRIATIONS.

RECORDER OF DEEDS.

UNITED STATES COURT-HOUSE,
OFFICE OF THE RECORDER OF DEEDS,
Washington, D. C., February 16, 1892.

SIR: In compliance with your request transmitted to me through the office of the District Commissioners, I have the honor to submit herewith a statement of gross and net receipts of this office during the two years I have held the position of recorder of deeds.

Very respectfully, your obedient servant,

B. K. BRUCE,
Recorder of Deeds.

Hon. A. M. DOCKERY,
Chairman, Subcommittee of the House Committee on District Appropriations.

Statement of gross and net receipts of B. K. Bruce, recorder of deeds for the District of Columbia, during the period of his recordership from February 7, 1890, to February 6, 1892.

Date.	Gross receipts.	Date.	Net receipts.*
FIRST YEAR.		FIRST YEAR.	
Part of February, 1890	$2,198.50		
March, 1890	3,365.75		
April, 1890	3,199.75		
May, 1890	3,251.75	May 6, 1890	$3,272.48
June, 1890	3,213.50		
July, 1890	2,598.00		
August, 1890	1,867.00	August 6, 1890	2,996.00
September, 1890	2,502.75		
October, 1890	3,189.50		
November, 1890	2,796.61	November 6, 1890	2,665.00
December, 1890	2,462.75		
January, 1891	2,500.87		
Part of February, 1891	467.00	February 6, 1890	2,455.62
	33,613.73		11,389.10
SECOND YEAR.		SECOND YEAR.	
Part of February, 1891	1,700.50		
March, 1891	2,514.02		
April, 1891	2,645.25		
May, 1891	2,891.50	May 6, 1891	3,177.32
June, 1891	3,279.25		
July, 1891	2,834.56		
August, 1891	1,958.50	August 6, 1891	3,361.13
September, 1891	2,539.50		
October, 1891	3,139.50		
November, 1891	2,819.00	November 6, 1891	2,950.00
December, 1891	3,112.00		
January, 1892	2,664.76		
Part of February, 1892	647.25	February 6, 1892	2,925.00
	32,775.59		12,413.45
Total	66,389.32	Total	23,802.55

* Computed quarterly.

B. K. BRUCE,
Recorder of Deeds.

WASHINGTON, D. C., *February 9, 1892.*

HORSES AND VEHICLES.

List of horses and vehicles owned by the District of Columbia and used by officials and employés of the District, February 23, 1892.

By whom used.	No. of horses.	Vehicles.
Engineer Commissioner	2	1 coupé, 1 surrey, 1 buggy.
Assistant to Engineer Commissioner, on highways	1	1 buggy.
Assistant to Engineer Commissioner, on sewers	1	1 buggy.
Superintendent of sewers	1	1 buggy.
Superintendent of streets	1	1 buggy.
Superintendent of water department	1	1 buggy.
General inspector of streets	1	1 buggy.
Inspector of asphalt and cement	1	1 buggy.
Superintendent of lamps	1	1 buggy.
General inspector of sewers	.....	1 buggy.
Superintendent of Bennings Bridge	.....	1 buggy.
Field parties	8	8 wagons.
General use	.....	1 wagon, 1 buggy.
Above kept at engineer stables, First and Canal streets SW.		
Parking commission	2	1 tree-wagon, 1 small wagon.
Kept at stable Third and Canal streets SW.		
Water department	3	3 wagons.
Kept at stable Sixteenth and U streets NW.*		
Property clerk	1	1 wagon.
Assessor's office, license clerk	1	1 buggy.
Transportation of prisoners to workhouse	3	1 small wagon, 1 large van.
Kept at stable on School street between Four-and-a-half and Sixth streets SW.		
Commissioners, executive department	1	1 coupé, 1 victoria.
Assistant assessors	1	1 wagon.
Disbursing clerk	1	1 buggy.
Inspector of buildings	1	1 surrey.
Superintendent of street cleaning	1	1 buggy.
Kept at livery stables.		
Superintendent of telegraph and telephone service	1	1 wagon.
Health department†	4	1 coupé rockaway, 5 wagons.
Police department	21	Patrol wagons, ambulances, and van.
Fire department	59	5 buggies, engines, etc.
Washington Asylum	20	1 carriage, 3 wagons.
Industrial Home School	‡2	
Total	140	

*1 horse and 1 wagon in pump service.

†2 horses and 3 wagons in pound service; 2 horses and 3 vehicles in health service. ‡Old.

EMPLOYÉS NOT SPECIFICALLY PROVIDED FOR.

OFFICE OF THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, February 11, 1892.

Hon A. M. DOCKERY,
Chairman Subcommittee District of Columbia appropriation bill,
House of Representatives:

SIR: In accordance with the request contained in your letter of the 25th ultimo, the Commissioners have the honor to transmit herewith a list of "inspectors, clerks, and other employés (except laborers actually employed upon public works), now in the service of the District of Columbia, who are not specifically provided for and appropriated for, but paid from general appropriations made in the District of Columbia appropriation act for 1892, * * * showing the amount paid each per year, or month or day."

The authority for their employment is the general clause in the District appropriation act of March 3, 1891, and of prior years, which provides:

"That overseers, inspectors, and other employés temporarily required in connection with sewer, street, or road work, or the construction and repair of buildings and bridges, or any work authorized by appropriations, and all expenses incidental to or necessary for the proper execution of said work, shall be paid from and equitably charged against the sums appropriated for said works."

The tenure of office or employment in these cases is limited to the necessities of the works, many of the men being engaged only for a few days in a given month and borne upon or dropped from the rolls as the interest of the service requires.

The list submitted is taken from the pay rolls for the months of November and December, 1891, and while it includes the names of some not at present in the service of the District, it is believed that none now employed have been omitted.

Very respectfully,

J. W. DOUGLASS,
President.

List of employés in the District of Columbia, other than laborers actually employed upon public works, who are not specifically provided for by appropriations.

Name.	Designation.	Rate.	Title of appropriation from which paid.
		Per diem.	
Beggs, E. Y	General inspector	$7.00	Improvements and repairs to streets, avenues, etc., 1892.
Reilly, P	Inspector	5.00	Do.
Stinemetz, John	do	5.00	Do.
Beale, J. W	do	4.00	Do.
Beall, G. W	do	4.00	Do.
Burton, W. E	do	4.00	Do.
Clagett, Thos	do	4.00	Do.
Clarkson, J. N	do	4.00	Do.
McMurray, R	do	4.00	Do.
Mason, Geo. F	do	4.00	Do.
Unger, C. R	do	4.00	Do.
Tincher, H	do	4.00	Do.
Maroney, J. A. E	do	3.50	Do.
Bailey, C	Subinspector	2.50	Do.
Harris, J. T	do	2.50	Do.
Morris, E	do	2.50	Do.
Greenwell, E. S	Clerk	4.00	Do.
Dorsey, W. L	Rodman	2.50	Do.
Jackson, J. M	Driver	1.65	Do.
Winston, M	do	1.50	Do.
Pollard, Robt	do	1.50	Do.
Sweeney, Thos	do	1.50	Do.
		Per month.	
Richards, Wm. P	Assistant engineer	$150.00	Do.
Hazen, M. C	Transitman	100.00	Do.
Fisher, T. J	Axman	50.00	Do.
Fernald, A. S	do	40.00	Do.
		Per diem.	
Voss, W. H	Inspector	$3.00	Improvements and repairs to streets, avenues, etc., and sewers, 1892.
Bond, A. M	do	4.00	Improvements and repairs to streets, etc., and construction of county roads, 1892.
Brown, Wm	do	4.00	Do.
Simms, R. D	Inspector and clerk	4.00	Do.
Owen, A. C	Axman	2.00	Do.
Maynard, Chas	Driver	1.50	Do.
Fernald, Chas	Assistant engineer	3.85	Improvements and repairs to streets, etc., permit work.
Donaldson, Wm	Inspector	4.00	Do.
Burns, Geo. C	Axman	2.00	Do.
McCormick, Ed	do	2.00	Do.
Haas, Wm	Driver	1.50	Do.
Mohun, Louis	Axman	2.00	Improvements and repairs to streets, etc., construction of county roads, Bennings Bridge, and permit work, 1892.
Renfro, Jas	Driver	1.50	Do.
McMahon, Thos	Inspector	4.00	Improvements and repairs to streets, etc., construction of county roads, and permit work.
Boiseau, L. T	Inspector of property	4.75	Improvements and repairs to streets, etc., sewers, and various appropriations, 1892.
Beuter, F. A	Inspector	4.00	Construction of county roads.
Calhoun, W. H	do	4.00	Do.
Calhoun, J. L	do	4,00	Do.
McCleod, T. B	do	4.00	Do.
Burr, H. A	do	4.00	Streets, D. C., 1892.
Cock, Alfred	Clerk and inspector	2.00	Do.
Stewart, John	Foreman	3.75	Do.
Donaldson, J. A	do	3.00	Do.
Mahaney, M	do	3.00	Do.
Collins, John	Carpenter	1.50	Do.
King, J. P	do	1.50	Do.
Burns, Lewis	Laborer and driver	1.50	Do.
Cooksey, J. I	Foreman	4.00	Streets and permit work.
Lanigan, Thomas	do	4.00	Do.

List of employés in the District of Columbia, other than laborers, etc.—Continued.

Name.	Designation.	Rate.	Title of appropriation from which paid.
		Per diem.	
Calhoun, R. W	Foreman	$4.00	Streets and permit work.
Walters, T. J	do	4.00	Do.
Morrison, T. J	do	4.00	Do.
White, W. J	do	3.75	Do.
Collins, C. H	do	3.00	Do.
Garland, J. S	Assistant engineer	3.85	Do.
Venable, J. L	Inspector	4.00	Do.
Dickinson, H. M	do	3.00	Do.
Pearson, C. S	Axman	2.00	Do.
Lanham, C. L	Clerk	2.00	Do.
Gibson, T. H	Foreman	3.00	Streets and sewers, 1892.
Nervis, E	Clerk	4.00	Permit work, 1892.
Server, M. T	do	3.50	Do.
Webb, C. D	do	3.00	Do.
Grey, W. J. W	do	2.50	Do.
Cridler, D. M	Inspector	3.85	Do.
McCormick, J. H	do	3.85	Do.
De Shields, W. H	do	3.85	Do.
Shankland, M. E	do	3.20	Do.
Boucher, Henry	Foreman	4.00	Sewers, D. C., 1892.
Harrison, G. W	do	4.00	Do.
Lemon, Charles	Inspector	4.00	Do.
Marks, S. A. H	do	4.00	Do.
Rock, E. G	do	4.00	Do.
Neville, J. A	do	4.00	Do.
Quackenbush, J. N	do	4.00	Do.
Beach, B. F	do	4.00	Do.
Thurston, F. T	Observer	5.00	Do.
Wallace, G. W	Draftsman	3.50	Do.
Cobb, jr., L	Acting rodman	2.50	Do.
Hunter, P. S	Timekeeper	2.00	Do.
Batts, A. T	Driver	1.50	Do.
Hurd, John	do	1.50	Do.
Payne, J. H	Laborer	1.50	Do.
Jackson, W. H	Foreman	3.00	Do.
Addison, H. C	do	3.00	Do.
Thomas, David	do	4.00	Do.
Bolden, Sam'l	do	3.00	Do.
Smith, Chas	do	3.00	Do.
Groat, W. H	Inspector	4.00	Sewers and permit work, 1892.
Wilson, G. G	do	4.00	Do.
Shomo, J. M	do	4.00	Do.
Lamb, R. H	do	4.00	Do.
Donovan, H	Subinspector	2.00	Do.
Condon, J. J	Foreman	4.00	Do.
Ward, W. J	do	4.00	Do.
Fuller, E. A	Stenographer	3.00	Do.
Parker, R. H	Clerk and subinspector	2.00	Do.
Laws, Adams	Laborer	1.50	Sewers and constructing county roads.
Barnes, John	Carpenter	2.00	Streets and bridges, 1892.
Walson, C. F	Foreman	3.00	Do.
		Per month.	
Hunt, C. B	Assistant engineer	$175.00	Bennings Road Bridge, 1892.
		Per diem.	
King, Jas. R	Inspector	$3.00	Do.
Arnold, R. A	Superintendent	5.00	Sweeping and cleaning streets, avenues, etc., 1892.
Carson, P. H	Assistant superintendent	3.50	Do.
Banby, Frank	Inspector	3.50	Do.
Charleton, James	Laborer	1.50	Do.
McKensie, A. G	Clerk	4.50	Do.
Mahorney, J. R	Foreman	3.00	Do.
Keyworth, H. Q	do	3.00	Sweeping and cleaning streets, avenues, etc., 1892.
Preston Harris	do	2.50	Do.
Lee, John	Assistant foreman	2.50	Do.
Russell, T. F	do	2.50	Do.
Warfield, R. W	do	2.50	Do.
Gleaves, R. H	do	2.50	Do.
Quantrill, T. C	Inspector	3.50	Do.
Dubant, Wm. B	do	3.50	Do.
Harpur, Edward	do	3.00	Do.
Culhane, Thos	Foreman	2.50	Parking commission, 1892.
Dunn, John	do	2.50	Do.
Fuller, Henry	do	2.50	Do.
Anderman, P	Carpenter	1.75	Do.
Kitz, Frank	Nurseryman	1.75	Do.
Devan, J. B	Foreman	2.50	Construction of county roads and parking commission.

List of employés in the District of Columbia, other than laborers, etc.—Continued.

Name.	Designation.	Rate.	Title of appropriation from which paid.
		Per month.	
Davis, Jas. A	Engineer	$65.00	Harbor and river front, 1892.
Neale, James	Watchman	23.00	Do.
Furguson, Robt	Deck-hand	27.00	Do.
Carraher, J. V	Physician to poor	40.00	Relief of the poor, 1892.
Chappelle, J. W	do	40.00	Do.
Collins, C. R	do	40.00	Do.
Custis, M. A	do	40.00	Do.
Darling, H	do	40.00	Do.
Ewing, F. C	do	40.00	Do.
Gibbs, B. F	do	40.00	Do.
Hannon, S. L	do	40.00	Do.
Leech, D. O	do	40.00	Do.
Neale, R. A	do	40.00	Do.
Pyles, R. A	do	40.00	Do.
Roy, P. S	do	40.00	Do.
Sprigg, W. M	do	40.00	Do.
Winter, E. C. C	do	40.00	Do.
Mackall, Louis, jr	do	40.00	Do.
		Per diem.	
Burton, Walter	Inspector	$2.00	Service of collection and removal of garbage.
Mason, W. V	do	2.00	Do.
Lacy, Henry	do	2.00	Do.
Slye, G. M	do	2.00	Do.
		Per annum.	
Landreau, C. Z	Clerk	$1,200	Service to prevent spread scarlet fever and diphtheria.
Osmun, C. J	Medical and sanitary inspector.	1,500	Do.
Richardson, G. T	Driver and assistant	500	Do.
		Per month.	
Anderson, R	Driver	$60.00	Transportation of paupers and prisoners, 1892.
		Per annum.	
McCalmont, J. K	Clerk	$1,000.00	Book of arrears of taxes.
Bolton, H. B	do	1,000.00	Do.
Lesh, Peter S	do	1,000.00	Do.
Smithers, J. E	do	1,000.00	Do.
Godwin, T. J	do	1,000.00	Do.
		Per month.	
Proctor, C. E	do	$40.00	Do.
Naylor, C. E	do	40.00	Do.
		Per diem.	
Barron, George O	Superintendent	4.00	Erecting public school buildings.
Boss, Robert L	do	4.00	Do.
Gray, Samuel	do	4.00	Do.
Drane, J. W	Foreman	4.00	Repairs to school buildings.
Sebastian, W. B	Painter	3.50	Do.
Dawson, C. E	do	3.00	Do.
Miller, W. J	do	3.00	Do.
McCarthy, J	do	3.00	Do.
Zier, Philip	do	3.00	Do.
Thomas, J. A	Carpenter	3.00	Do.
Thomas, J. E	do	3.00	Do.
Gover, R. C	do	3.00	Do.
Walling, M. J	do	3.00	Do.
Mayne, J. F	Laborer	1.50	Do.
Carroll, J. M	do	1.50	Do.
		Per month.	
McClure, R. D	Gen'l inspector of bridges	100.00	Bridges, D. C., 1892.
Conner, Samuel	Bridge keeper	55.00	Do.
Edelin, William	Assistant bridge keeper	50.00	Do.
		Per diem.	
Lucas, E	do	1.50	Do.
		Per annum.	
Duvall, E. J	Bridge keeper	660.00	Do.
Snyder, C. H	do	600.00	Do.
		Per diem.	
Wolz, John	Carpenter and bridgeman	2.50	Do.
Nocton, William	do	2.50	Do.
Merillat, Charles	Foreman	3.00	Public pumps, D. C., 1892.
Burnell, Wm	Inspector	3.00	Street lighting, 1892.
		Per month.	
Bailey, Charlotte	Janitress	30.00	Emergency fund, District of Columbia, 1892.
King, Thos. S	Janitor	60.00	District of Columbia militia, 1892.
Walsh, Harry	do	50.00	Do.
Murray, Benj	do	25.00	Do.

List of employés in the District of Columbia, other than laborers, etc.—Continued.

Name.	Designation.	Rate.	Title of appropriation from which paid.
		Per diem.	
Urban, T	Gardener	$0.60	Washington Asylum, 1892.
Cook, T	Herdsman	0.65	Do.
Talbert, P	Laborer	1.75	Do.
Smith, A. St. A	do	1.75	Do.
Wallingaford, E	do	1.50	Do.
Coghlan, J	do	1.25	Do.
Kent, M. W	do	1.25	Do.
Bloomer, F	do	1.25	Do.
Gillian, J	do	1.25	Do.
Hurdle, M	do	1.00	Do.
Webster, W	do	.25	Do.
		Per month.	
Garnett, R. P. W	Clerk	50.00	Indexing old records, 1892.
McDonald, C. G	do	50.00	Do.
McElfresh, Wm. S	Care of morgue	25.00	Coroner's office, 1892.
Lyles, Wm	Hostler	40.00	Contingent expenses, District of Columbia, 1892.
Harkness, Annie C	Clerk	83.33	To complete the docketing and reproduction of records in the register of wills office, prior to 1879, appropriation of 1891-'92.
Chinn, W. J	Custodian	50.00	Public schools, text-books, and supplies, 1892.
		Per diem.	
Brawner, WmH	Bailiff	5.00	Collection of taxes by distraint.
Holmes, T. J	Inspector	3.50	Numbering houses, 1892.
Orndorff, Wm. O	do	3.50	Do.
Wade, Wm. A	Receiver of material	3.00	Water department, 1892.

SUMMARY.

Inspectors	50	Carpenters and bridgemen	2
Subinspectors	4	Bridge-keepers	3
Inspector and clerk	1	Assistant bridge-keepers	2
General inspector	1	General inspector of bridge-keepers	1
Inspector of property	1	Painters	5
Medical and sanitary inspector	1	Drivers	12
Physicians to the poor	15	Driver and laborer	1
Clerks	18	Laborers	14
Superintendents	4	Stenographer	1
Assistant superintendent	1	Janitors	3
Foremen	30	Janitress	1
Assistant foremen	4	Watchman	1
Engineer	1	Herdsman	1
Assistant engineers	4	Gardener	1
Axmen	7	Nurseryman	1
Rodman	1	Hostler	1
Acting rodman	1	Deck hand	1
Draftsman	1	Custodian	1
Transitman	1	Bailiff	1
Observer	1	Keeper of morgue	1
Timekeeper	1	Receiver of material	1
Carpenters	8		

FEBRUARY 10, 1892.

LIGHTING STREETS.

DISTRICT OF COLUMBIA, ENGINEER DEPARTMENT,
Washington, February 9, 1892.

Hon. A. M. DOCKERY,
Chairman, Subcommittee on Appropriations, District of Columbia,
House of Representatives:

(Through Engineer Commissioner, District of Columbia.)

SIR: Complying with your request of this morning, I have the honor to submit the following statements concerning the estimates for lighting the streets, etc., for the fiscal year 1893.

It is estimated that 5,800 gas lamps and 537 oil lamps will be in service on July 1, 1892, and that 500 new gas lamps and 100 oil lamps will be put in service during the fiscal year, 1893.

It is also estimated that if there is an undue proportion of thick weather during the fiscal year 1893, it may be necessary to light the gas and oil lamps one hundred hours in excess of the minimum prescribed by law. The contract provides that such extra lighting shall be paid for pro rata, that is, for such additional part of $21.50 per lamp per year as the number of hours of extra lighting is of three thousand. Under these conditions the itemized estimate for gas and oil lighting is as follows:

Fiscal year 1893.

5,800 gas lamps at $21.50 each	$124,700.00
500 gas lamps (average six months), at $10.75 each	5,375.00
537 oil lamps at $15.60 each	8,377.20
100 oil lamps (average six months), at $7.80 per month	780.00
600 lamp-posts at $10 each	6,000.00
600 lanterns at $4 each	2,400.00
Erecting 500 gas lamps at $8	4,000.00
Erecting 100 oil lamps at $1	100.00
Moving and reërecting 300 gas lamps at $4 each	1,200.00
Street designations	1,000.00
100 hours' extra lighting, 6,300 gas lamps	4,515.00
100 hours' extra lighting, 637 oil lamps	331.24
Total	158,778.44
Less estimated repayments by steam railway companies	3,896.40
Appropriation required	154,882.04

There are now 322 arc lamps in service under a three years' contract expiring June 30, 1894, at 50 cents per lamp per night. These lamps are required by law and by the contract to burn every night from sunset to sunrise, a total of about 4,380 hours per annum. This is longer than what is usually required in other large cities. These public arc lamps are also required to be maintained wholly by means of underground wires, a condition not imposed in any other city in this country, so far as I am informed. The question of the cost of gas and electric light in the District was reported upon by the Commissioners about a year ago (see Senate Mis. Doc. No. 56, Fifty-first Congress, first session). The cost of lighting by means of arc lamps in the largest cities of the United States is discussed on pages 6 to 9 of that report.

For the fiscal year 1893, the estimates for electric lighting are as follows:

Arc lights, 1893.

Maintaining 322 arc lamps now in service, at $182.50 each	$58,765.00
Maintaining 58 additional arc lamps on H street N., between Seventh street W. and Fifteenth street E., at $182.50 each	10,585.00
Inspection	1,197.50
Total	70,547.50
Less estimated repayments by steam-railway companies	547.50
Appropriation	70,000.00

The number of gas lamps displaced by the proposed increase of 58 arc lamps will be 91, thereby lessening the cost of gas lighting for 1893 by $1,956.50.

H street north is chosen for the extension of the arc-lighting service in order to accommodate country people coming to market by the Bladensburg and the Bennings roads, and to give to the northeast section of the city a share in the arc lighting. H street is the busiest thoroughfare in that section, which has thus far no public arc-lamps, being in this respect behind the other sections.

In this connection I desire to emphasize the necessity for providing without delay the force estimated for as necessary to exercise a suitable degree of supervision over the execution of the contracts for street lighting. These contracts cover large amounts of money, and, in a great measure, involve the public comfort and safety. The force asked for is the minimum necessary to see that the provisions of the contracts are faithfully carried out.

The force now employed consists of one superintendent at $1,000, one inspector at $900, and one inspector who does nearly all the clerical duty of the office and also does work of inspection both by day and by night. The last named is paid $3 per diem from the appropriation for electric lighting.

For 1893 it is proposed to pay the superintendent of lamps $1,200, a small salary. The superintendent of lamps in New York City is paid $2,750 per year and the supervisor of lamps in Philadelphia $1,800 per annum. It is proposed to pay one clerk of lamps $1,000 per year. The corresponding place in Philadelphia is paid a like amount, while $1,500 is paid in New York City. It is further proposed to add one inspector, at $900 per year. This will make a pay roll of four persons, whose salaries will aggregate $4,000 per annum, for the supervision of a number of lamps which will reach about 6,500 during the fiscal year 1893.

For looking after 4,369 lamps the annual appropriation by the city of St. Louis, Mo., for the year ending April 13, 1891, was $10,125.

If the committee finds it impossible to give the whole of the force asked, the clerk should by all means be allowed and the cut made on the additional inspector asked.

I inclose two provisions which may, with advantage, be added to the bill under the head "Lighting." The first is intended to give the Commissioners power to secure the laying of gas mains where street lamps are needed, but where the gas companies may not be willing to lay them. The second provision is intended to meet contingencies similar to that of the summer of 1890, when the Georgetown Gas Company, owing to trouble at its works, was for several weeks unable to properly light the streets of Georgetown.

Very respectfully,

JAS. L. LUSK,
Captain of Engineers, U. S. Army.

[Indorsement.]

Respectfully forwarded. I concur in the above.

WM. T. ROSSELL,
Engineer Commissioner, District of Columbia.

Provided, further, That in case of failure on the part of either gas company to provide gas sufficient in quantity and illuminating power to satisfactorily light all or any part of the street lamps assigned to that company by the Commissioners of the District of Columbia, the said Commissioners are hereby authorized and empowered to require the nondefaulting company to extend its mains by the shortest practicable route to connect with those of the defaulting company, and to supply sufficient gas of the standard required by law to satisfactorily maintain the street-lighting service for such time as may be necessary: *Provided*, That all costs and expenses which may arise hereunder, shall be charged against the defaulting company, and unless voluntarily deposited with the collector of taxes, District of Columbia, shall be provided for as prescribed in the case of street railway companies, in paragraph sixteen, section five, of the act providing a permanent form of government for the District of Columbia, approved June eleven, eighteen hundred and seventy-eight. *Provided*, That each gas company shall, at its sole and entire expense, make reasonable extensions of its gas mains whenever the said extensions shall be ordered by the Commissioners of the District of Columbia, as necessary for maintaining street lamps for the public safety and comfort.

SEWERS.

DISTRICT OF COLUMBIA, ENGINEER DEPARTMENT,
Washington, February 11, 1892.

Hon. A. M. DOCKERY,
Chairman Subcommittee on Appropriations, D. C., House of Representatives.
(Through Engineer Commissioner, D. C.)

SIR: Complying with your request of the 5th instant, I have the honor to submit the following statement in connection with the estimates for "Sewers, 1893:"

CLEANING AND REPAIRING SEWERS AND BASINS.

The estimate is $45,000, which is believed to be only what is sufficient to keep up with the needs of the expanding system of sewers. The dimensions of the latter are now as follows:

	Lineal feet.
Pipe sewers	1,178,819.60
Brick sewers	343,257.25
Concrete sewers	5,448.94
Total	1,527,525.79
Total in miles	289.3
Manholes, number of	9,616
Basins, number of	3,552

REPLACING OBSTRUCTED AND INSUFFICIENT SEWERS.

For many years it has been necessary to replace annually a certain number of old pipe sewers, which have become obstructed, generally by roots of trees. The extent

of the work done with the different appropriations can be seen from the following table:

Length of sewers replaced under appropriations for replacing obstructed sewers.

Fiscal year.	Size of sewer.							
	6-inch.	8-inch.	12-inch.	15-inch.	18-inch.	20-inch.	21-inch.	24-inch.
1888			4,295	797	465	32		
1889		159	4,134.3	1,123	1,992			
1890			1,613	2,477	2,379		99	811.3
1891		219	4,415	2,777.2	1.176			1254.2
1892	201		3,786	737	500			6
Total	201	378	18,243.3	7,911.2	6,512	32	99	2071.5

* This includes 475 feet now being replaced.

The work is pushed each year to include only those sewers which have become so badly obstructed as to be useless.

The words "and insufficient" are proposed to be added after the word "obstructed" to cover the cost of certain pipe sewers which were originally laid much too small and which must be replaced.

Main and pipe sewers, 1893 (in order of relative importance).

1. Pipe sewers	$65,000
2. Receiving basins	10,000
3. Main sewer, between Easby's Point and Seventeenth street W	175,000
4. Eastern Branch (right bank) interceptor	150,000
5. Extension of main sewer on Fourteenth street SE	10,000
6. Relieving sewers on Fifth and B streets SE	4,050
7. Lower Rock Creek interceptor (lower portion)	37,950
Total	452,000

The pipe sewers are needed in all parts of Washington and Georgetown, to afford immediate drainage to houses. The house connections are laid and maintained by the property-owners. The receiving basins should be built at the same time as the pipe sewers, to afford relief from storm water.

Items 1 and 2 naturally go together and are, practically speaking, of equal importance.

Item 3 contemplates the construction of a sewer, the first duty of which will be to drain the territory bounded by Eighteenth, Twenty-fifth, B and F streets NW. This district is practically without drainage, and very serious complaints are made that its development is retarded for lack of sewers. The pipe sewers can not be laid until the main or trunk sewer is completed. On the south the area described is bordered by the old canal, which has been partly filled up and at one point is now a large pond, and by the Potomac Flats. Very serious effects upon the public health are to be apprehended if surface drainage is allowed to flow into the canal and upon the flats. The extension of this sewer will also allow the interception of the mass of filth which now decomposes throughout the length of the Seventeenth street canal and of the storm water which, during heavy rains, rushes down from above F street, between Seventh and Fifteenth streets W., upon the low ground south of Pennsylvania avenue, and there causes flooding and damage to property. Suits against the District on account of this flooding are now pending to the amount of $40,000, and, if one of them is successful, large additional claims will undoubtedly be presented.

It is intended to build this sewer so that it may form an integral part of any rational system of sewage disposal. The general line of this sewer was, however, mapped out just after the floods of the summer of 1889, before the appointment of the board of sanitary engineers which has since reported upon the question of sewage disposal. This sewer should by all means be built without further delay.

Item 4 is for the building of an intercepting sewer from about Fifteenth and G streets NE., in a direction generally parallel to the Eastern Branch, as far down as the United States Jail grounds, where, for the time being, it is to discharge into deep water in the stream named. This sewer is intended to intercept and carry the dry-weather flow of the large east-boundary sewer to a point where it can be temporarily discharged without doing harm. The discharge now takes place in a stream flowing through private property, the owners and tenants of which have begun to institute suits against the District. These suits now aggregate $55,000, and

a much larger amount will undoubtedly follow within a short time unless the existing bad conditions be removed.

Item 5 is for the necessary extension of a trunk sewer on Fourteenth street SE. The lower part of this sewer has been built; another part is now under contract, but no use can be made of the completed work until the extension asked for is constructed.

Item 6 will allow certain overcharged sewers to be relieved in the vicinity of Fifth and B streets SE. The existing sewers are too small, and houses now connected with them are flooded during every heavy rain.

Item 7 is very much smaller than it should be, because the Commissioners felt obliged to cut down the aggregate of my estimates for main and pipe sewers. The total estimate for this sewer (the Lower Rock Creek interceptor) was $228,000. That it should be built with the least possible delay will be apparent to any one who, during warm, dry weather visits Rock Creek anywhere between P street bridge and the dam near its mouth. The item presented ($37,950) will allow the building of a part of the lower section of this sewer in open cutting. Much of the upper section will necessarily be in tunnel.

Suburban sewers, 1893 (in order of relative importance).

1. Pipe sewers	$20,000
2. Receiving basin	4,000
3. Piney Branch intercepting sewer	22,800
4. Rock Creek (left bank) intercepting sewer (extension)	27,700
5. Le Droit Park main sewer	11,500
6. Anacostia main sewers	16,000
7. Eckington Valley sewer (extension)	10,000
Total	112,000

Items 1 and 2 are essentially of equal importance. The pipe sewers and basins are needed generally throughout the suburban area wherever trunk sewers have been built. Item 3 I regard as of great importance. Much of the suburb of Mount Pleasant is provided with a public water supply and a pipe sewer system. House connections with the latter must be prohibited, until the completion of the sewer under consideration, but the stream (Piney Branch) is threatened with pollution, which once started, will be a grave matter unless the contemplated sewer is built without delay.

Item 4. My estimates asked for more than twice what is here presented in compliance with the decision of the Commissioners. This sewer must be pushed rapidly to completion, if Rock Creek, above P street bridge, is to be kept from falling into the same condition as below that structure. The health of a large portion of that community is dependent upon the speedy completion of this line.

Item 5. Much of the existing drainage in Le Droit Park was laid by private owners, and is entirely faulty and inadequate. The contemplated sewer is intended to cut through the heart of the old system and to allow its defects to be remedied. Item 6 is to allow portions of necessary trunk sewers to be built in the rapidly growing suburb of Anacostia. A public water supply has recently been introduced into this area, and in one instance a suit is threatened which can probably be averted by building a piece of sewer.

Item 7 is to allow an extension of about one block in length to be made of the Eckington Valley trunk sewer. The stream which drains this valley is polluted by house sewage, and should be taken up by a sewer as soon as possible.

Concerning the estimates for main and pipe sewers and for suburban sewers it may be said in general terms that they are much below what the real necessities of the case demand. If the state of the District's revenues permitted, these estimates should at least be doubled, and the appropriation should be made to correspond.

Unless the situation is regarded in its true light, and adequate provision made for the necessary work, the District may expect to pay a fearful penalty, not only in the diminished health of its residents, but in damages aggregating an enormous sum.

Concerning the estimate for "gauging sewers and rainfall," I have to say that the results of this work will have an importance in determining the right proportions of sewers to be built far beyond the moderate expense incurred. Every city or town which has, or proposes to have, a sewer system, will be interested in these results.

The estimate for "condemnation of rights of way for the construction, maintenance, and repair of public sewers" can not be reduced without delaying the construction of proposed sewers.

Very respectfully,

JAS. L. LUSK,
Captain of Engineers.

Respectfully forwarded. Approved.

WM. T. ROSSELL,
Engineer Commissioner, District of Columbia.

Location of schoolhouses rented, with the number of rooms, and object for which rented.

Location.	Rooms used.	Use.
Miner	2	Graded shools.
917 P street, northwest	2	Graded shools.
Miller	8	1 for graded school, 3 for cooking, 2 for carpentry, 2 for metal working.

SUMMARY.

Whole number of rooms	188
Number of rooms used for purpose of manual training	13
Number of actual schoolrooms	175
Number of pupils enrolled	12,575
Number of actual seats	9,181

List of buildings constructed or authorized, with their locations, for the six years ending 1892.

Buildings.	Location.	Rooms.	Capacity.
Eastern High	7th street, bet. C and D, SE		500
Adams	R, bet. 17th street and New Hampshire ave., NW	8	400
Berret	14th and Q streets, NW	9	450
Phelps	Vermont ave., bet. T and U sts., NW	8	400
Harrison	13th street, bet. V and W., NW	8	400
Polk	7th and P streets, NW	8	400
Blake	North Capitol street, bet. K and L, NW	8	400
Morse	Fifth and R streets NW	8	400
Arthur	Arthur Place NW	8	400
Madison	Tenth and G streets NE	8	400
Taylor	7th street, bet. F and G sts., NE	8	400
Maury	B street, bet. 13th and 14th, NE	8	400
Carberry	5th street, bet. D and E, NE	8	400
Towers	8th and C street SE	8	400
Lenox	5th street and Virginia ave. SE	8	400
Smallwood	I street, bet. 3d and 4½, SW	8	400
Bradley	13½ street, bet. C and D, SW	8	400
Corcoran	28th street, bet. M street and Olive ave., NW	8	400
Jackson	U street, bet. 30th and 31st, NW	8	400
Tyler	11th street, bet. G and I, SE	8	400
Weightman	23d and M streets NW	8	400
Van Buren	Anacostia, D. C	8	400
Monroe	Steuben street, bet. 7th and 8th, county	8	400
Wilson	Central, bet. Erie and Superior streets	8	400
Birney	Hillsdale, D. C	4	200
Brightwood	Brightwood, D. C	4	200
Brookland	Brookland, D. C	4	200
Good Hope	Good Hope Hill	2	100
Burrville	Burrville, D. C	1	50

TOTAL FOR FIRST SIX DIVISIONS.

Number of buildings	29
Number of rooms, excluding high school	200
Maximum seating capacity, total	10,500

Additions have been made to the following buildings:
White: Central High School, Bennings (2 rooms), Tennallytown (2 rooms).
Colored, county: Mott (4 rooms), Benning Road (2 rooms), Garfield (2 rooms).

SEVENTH AND EIGHTH DIVISIONS.

City colored schools.

Building.	Location.	Rooms.	Seats.
High school	M street, bet. 1st and N. J. ave., NW		600
Briggs	22d and E streets NW	8	400
Slater	P, bet. North Capitol and 1st streets, NW	8	400
Magruder	M, bet. 16th and 17th streets, NW	8	400
Phillips	N, bet. 27th and 28th streets, NW	8	400
Garrison	12th, bet. R and S streets, NW	8	400
Jones	1st and L streets NW	8	400
Logan	3d and G streets NE	8	400
Bell	1st, bet. B and C streets, SW	8	400
Ambush	L, bet. 6th and 7th streets, SW	8	400
Giddings	G, bet. 3d and 4th streets, SE	8	400

TOTAL SEVENTH AND EIGHTH DIVISIONS.

Number of buildings	11
Number of rooms, excluding high school	80
Seating capacity, maximum	4,600

Location of houses rented, with the number of rooms, and the object for which rented.

Location.	Rooms.	Use.
14th and N streets, NW	2	1 for graded school and 1 for cooking.
607 and 609 O street, NW	4	Cooking schools.
624 and 626 O street, NW	11	Carpentry and metal working.
Peabody annex	4	2 graded and 1 cooking and 1 school for carpentry.
494 Maryland avenue, SW	2	Sewing.
31st and N streets, NW	1	Graded school.
Total	24	
County:		
Steuben street	1	Cooking.
Grand total	25	

Expenditure of contingent fund for the present year, to date.

[First six divisions.]

Wm. Ballantyne & Son—Books and stationery	$2,729.79
W. J. C. Dulany & Co.—Books and stationery	989.79
Sundries, seventy-four bills—For hardware, tinware, soap, soapine, lye, plumbing, coal oil, sponge, chamois skin, etc	2,133.27
Printing—Minutes of Board of Trustees, blank forms, pamphlets on language and music, etc	1,282.29
Furniture and furnishings	843.89
High schools—Laboratories, supplies for	1,729.57
Repairs to furniture, and taking up and setting the same	739.09
Repairs to stoves	708.64
Typewriters and typewriter supplies	629.82
Hauling books and supplies	333.42
Removing ashes and cleaning outhouses	237.60
Gas	514.04
Repairing clocks	65.25
Bookbinding, A. Zichtl	169.05
Total	12,935.45

WASHINGTON, D. C., *February 11, 1892.*

SIR: Pursuant to your request I have the honor to make the following report upon the examinations made by me of the public school buildings in the District of Columbia, to ascertain how many cooking schools are located in them, in rooms which might otherwise be used for schoolrooms. I found one cooking school each in the Force, Seaton, Gales, Wallach, and Jefferson, located on the best floors and in the best schoolrooms. One each in the Anacostia, Hillsdale, Randall, Bennings (white), Bennings (colored), on the ground floor. These latter buildings have no basements. I also found one in the basement of the Stevens building.

The Jefferson school building contains two rooms in the basement, either of which would make excellent rooms for cooking schools, and the basement room in the Wal-

ach building, which is now used only for storing old materials, could also be made available for a cooking school. The cooking schools in the Gales, Seaton, and Force can be placed in the basements, which have sufficient windows to afford ample light and ventilation. All except the cooking school in the Stevens building are in rooms previously used for regular schools.

The public school buildings of the District are equal in every respect to any in the country, but the use of rooms in them for cooking purposes cause them great injury. It gives rise to the presence of roaches and other vermin, and the odors offensively permeate the entire building. They also in each case displace an average of fifty day pupils per room. If it is indispensable to give instruction in cooking, schools for that purpose should be placed in an outside building, as in the case of the Peabody annex. The Miller building, the building 609 O street, and that at 14th and N streets, are rented and used for that purpose.

Very respectfully,

THOS. B. ENTWISLE,
Inspector of Buildings.

Hon. A. M. DOCKERY,
Chairman Subcommittee on Appropriations District of Columbia,
House of Representatives.

STREET PAVEMENTS.

DISTRICT OF COLUMBIA, ENGINEER DEPARTMENT,
Washington, February 4, 1892.

DEAR SIR: I have the honor to submit to your committee the following information about the concrete pavements of Washington.

On July 1, 1891, there had been laid in the city and suburbs of these pavements 2,278,411 square yards, or about 98 miles, of which 1,153,736 square yards were asphalt, 881,939 coal tar, and 242,736 square yards asphalt block.

These pavements were laid as given in the following table:

Year.	Square yards.	Year.	Square yards.	Year.	Square yards.
1871	17,617	1879	105,117	1887	77,988
1872	162,414	1880	71,177	1888	109,994
1873	284,026	1881	88,309	1889	141,107
1874	65,268	1882	85,790	1890	190,148
1875	167,609	1883	101,241	1891	182,199
1876	69,954	1884	121,825	1892	*103,000
1877	42,749	1885	70,120		
1878	21,819	1886	65,417		

*Approximate.

For the first five years after a pavement is laid it is kept in repair by the contractor without cost to the District; 10 per cent of the amount due him is retained during these five years. To further insure the contractor making his repairs properly, one inspector is employed to supervise these repairs with each gang employed by the contractor.

The repairs after the five years are done by the District of Columbia under a contract regularly entered into with Mr. H. L. Cranford.

This contract was entered into for five years on August 11, 1888, and will expire July 1, 1893. Under this contract repairs are made by cutting out and repaving in patches, until the surface of the original pavement is so badly worn that the cost of patching becomes excessive, and it becomes very difficult to keep the pavement in repair. Then the entire surface of the pavement is removed and a new surface of coal-tar distillate or asphalt, preferably the latter, is laid over the entire pavement. The coal-tar surface costs $1.02 a square yard, the asphalt surface $1.44 a square yard. When a pavement is resurfaced the curb is releveled, and sidewalks disturbed or out of order are also relaid. This makes the cost somewhat greater than the contract price. The average life of a tar or asphalt pavement should be fifteen years under ordinary repairs without resurfacing. Between fifteen and twenty years it is probable that the majority of these pavements will need resurfacing. Provision should be made for resurfacing all when laid over twenty years.

The following table shows the amount of resurfacing which has been done since these pavements were first laid:

Year.	Square yards.	Year.	Square yards.	Year.	Square yards.
1878	218,843	1884	19,427	1890	97,846
1879	17,864	1885	17,000	1891	49,976
1880	53,436	1886	18,255	1892	51,125
1881	20,451	1887	24,839		
1882	31,172	1888	29,260	Total	495,668
1883	19,445	1889	44,972		

Of the pavements resurfaced only 32,849 square yards had been laid since 1878.

Between 1871 and 1877 there were laid in the city 741,415 square yards of tar pavements under various patents. Some of this work was very poorly done, as may be seen from the above table, 218,843 square yards being resurfaced less than six years after it was first laid. Of this tar pavement there is about 300,000 square yards which has never been resurfaced; some of it will last a year or so longer, but most of it demands immediate resurfacing.

The first cost of this resurfacing may perhaps seem great, but when it is considered that the contractor is obliged to keep the resurfaced pavement in repair for five years without cost to the District the advantage of this resurfacing becomes more apparent.

The following table shows the annual cost of repair for the last five years of a few of the pavements which we recommend to be resurfaced. It is apparent that the cost for the next five years would be at least 50 per cent greater:

Street.	From—	To—	1887.	1888.	1889.	1890.	1891.
Massachusetts avenue	Fourth	Seventh	.....	*$3,675	$356	$63	$83
Do	...do		.....	.....	29	155	36
Vermont avenue	Thomas Circle	Iowa Circle	$182	264	366	398	339
First, east	A, south	B, north	373	582	484	1,710	482
Thirteenth, west	B, north	C, north	177	378	225	325	210
Twentieth, west	New Hampshire avenue.	Connecticut avenue.	266	41	192	198	80
O, north	Fourth	Thirteenth	565	950	508	1,095	916
M, north	Sixteenth	Connecticut avenue.	85	153	740	20	225
S, north	Fourteenth	Sixteenth	48	476	252 / †2,335	55	312
Madison	Fifteenth	...do	.....	112	145	71	.....
Fourteenth, west, east side.	Thomas Circle	Florida avenue	1,024	1,677	1,115	1,523	2,000

* Resurfacing. † Resurfacing Fifteenth to Sixteenth.

Ten per cent should be added to the above for inspection.

The above table was constructed by selecting streets at random from those we recommend to be resurfaced, and taking from our record book the exact amount of money expended on each street.

We have now in this city, as may be seen from the tables, 368,637 square yards of concrete pavement laid before 1878 which has never been resurfaced. This should all be resurfaced before 1894, when the 105,000 square yards laid in 1879 will be fifteen years old.

One-half of this, or 184,318 square yards, should be resurfaced this coming fiscal year; in my estimate, however, I have reduced this amount to 100,000 square yards.

Besides this resurfacing, we must keep in repair the remainder of 1,433,909 square yards of pavement upon which the contractor's guaranty has expired. This repair work is done by men in the employ of the contractor, supervised by inspectors appointed by the District. He is paid only for the materials used in making repairs, and one of the principal duties of the inspector is to see that no more of the pavement is repaired than is absolutely necessary. This work we estimate at 4½ cents a square yard.

On the above basis I submit the following estimate, as the least amount which should be appropriated for the "repairs to concrete pavements:"

Resurfacing with asphalt 100,000 square yards, at $1.50	$150,000.00
Repairs, 1,333,909 square yards, at 4½ cents	60,025.91
Total	210,025.91

If necessary I would recommend that the schedule for improving new streets be reduced to make up this amount, as I believe it the most important item in the street work.

Transmitted herewith is a list of the streets which need resurfacing, and other information about asphalt streets in the United States and abroad.

Very respectfully,

G. J. FIEBEGER,
Captain of Engineers, U. S. A.

Hon. A. M. DOCKERY,
Chairman Subcommittee on Appropriations,
House of Representatives, United States.
(Through Capt. W. T. ROSSELL, *Engineer Commissioner.*)

APPENDIX I.

Cost of asphalt pavements.

Cities.	Square yards.	Cost per square yard.
Berlin	686,000	$3.00 ?
Paris	360,000	2.92 to $3.25
London	250,000	2.50 to 2.92
Washington	1,256,000	2.25
Albany		3.10
Boston		3.50
Buffalo		3.00
Cincinnati		2.85
Kansas City		2.80
Minneapolis		2.75
Newark		2.93
Omaha		2.95
St. Louis		2.97

Maintenance.

London.—Total cost, including repairs and a new surface at end of seventeen years	$4.86 to $6.30
Paris.—Total cost, including repairs for seventeen years. One fifteenth resurfaced every year.	5.50 to 5.92
St. Louis.—Total cost, including repairs for ten years	3.17
Cities of United States.—Total cost including repairs and a new surface at end of seventeen years, based on estimate of Capt. Greene, of Barber Asphalt Company	6.70
Washington.—Total cost, including repairs and a new surface at end of seventeenth year, based on estimate of $2.25 for new pavement, $1.50 for resurfacing, and 4½ cents for annual repairs	4.23

List of streets to be resurfaced, 1892-'93.

Street.	From—	To—	Year laid.	Approximate cost.
Massachusetts avenue	Fourth	Seventh	1881	$4,996
Massachusetts avenue (north side.)	Intersection of Fourth street.		1877	445
Dupont Circle			1873	9,757
Vermont avenue	Thomas Circle	Iowa Circle	1873	7,005.76
Do	K	215 feet north	1872	1,727.63
Massachusetts avenue	Fifteenth	210 feet west	1873	1,987.22
Pennsylvania avenue (north side.)	Washington Circle	Twenty-sixth	1877	5,257.42
Rhode Island avenue	Scott Circle	Fifteenth and around Circle.	1873	2,870.00
Do	do	Seventeenth	1873	3,392.82
New York avenue (north and south sides).	Ninth	Eleventh	1878	8,029.69
Do	Fourteenth	Fifteenth	1872	3,600.00
First, east	A, south	B, north	1873	5,196.36
Eleventh, west	G	New York avenue	1875	4,400.00
Twelfth, west	G	Massachusetts avenue	1875	9,739.80
Fourteenth, west (east side)	Thomas Circle	Florida avenue	1882	25,890.42
Fourteenth, west (west side)	H	Thomas Circle	1879	8,253.00
Thirteenth, west	B	C	1878	3,048.00
Seventeenth, west	E	New York avenue	1872	3,345.76
Do	B, north	E, north	1872	
Nineteenth, west	Dupont Circle	Q	1873	1,756.66
Do	R	T	1873	5,074.00
Twentieth, west	K	L	1873	1,942.81

List of streets to be resurfaced, 1892–'93—Continued.

Street.	From—	To—	Year laid.	Approximate cost.
Twentieth	M	N	1873	$3,568.00
Do	New Hampshire avenue	Connecticut avenue	1873	6,346.51
Twenty-second west	G	Pennsylvania avenue	1873	6,152.00
B north	First	Second	1874	4,900.00
I north	Thirteenth	Fourteenth	1874	5,461.00
Do	Sixteenth	Seventeenth	1873	5,202.87
M north	Twenty-sixth	Rock Creek	1873	1,000.00
N north	Connecticut avenue	Twenty-first	1875	5,216.00
O north	Fourth	Seventh	1875	7,000.00
K north	Third	Fifth	1875	8,126.00
Do	Connecticut avenue	Eighteenth	1875	4,372.00
Do	Ninth	Vermont avenue	1875	19,142.00
S north	Fourteenth	Fifteenth	1875	3,388.53
Ninth west	D	E	1886	1,302.00
Do	N	P	1872	4,381.00
H east (south side)	North Capitol	First	1883	3,708.30
H east (north side)	Second	Fourteenth	1883	18,974.50
Madison northwest	Fifteenth	Sixteenth	1875	1,839.45
Thirty-third west	N	O	1883	1,947.75
Fifth west	H	New York avenue	1873	3,262.21
L north	Sixteenth	Connecticut avenue	1873	7,528.00
Twelfth west	M	Massachusetts avenue	1875	2,800.00
M north	Sixteenth	Connecticut avenue	1873	7,528.00
K north	Vermont avenue	Seventeenth		10,309.00
				256,663.47
Asphalt-block streets.				
Seventh and Louisiana avenue.	Intersection.		1879	4,680.78
Fifteenth northwest	Pennsylvania avenue	D	1883	10,326.24
Twenty-ninth northwest	N	P	1883	4,354.80
Thirty-first northwest	N	P	1882	4,292.66
				23,654.48
Grand total				280,317.95

SIXTEENTH STREET.

OFFICE OF THE ENGINEER COMMISSIONER,
DISTRICT OF COLUMBIA,
Washington, D. C., February 10, 1892.

SIR: The District of Columbia appropriation act for the current fiscal year contained a clause (26 Stats., 1067) "To grade Sixteenth street northwest, extended, from Florida avenue to north side of Morris street, seventeen thousand dollars; but before said sum or any part thereof shall be expended every owner of property abutting on this street within said limits, except as hereinafter provided, shall bind himself, his heirs, grantees, and successors in estate therein forever, never to allow any building or obstruction to be erected within the lines inclosed between the building lines of Sixteenth street northwest, extended, on the same lines as now existing within the boundary: *Provided, however,* That the Commissioners of the District of Columbia are hereby authorized in the manner provided with reference to the taking of land for public use in the District of Columbia to condemn and take all of that part of block seven which lies immediately east of Meridian avenue and west of Sixteenth street, extended, for public use in widening the same, so as to conform to the width of said Sixteenth street within the boundary, and to pay out of the said seventeen thousand dollars the award of damages for such taking and condemnation; and the Commissioners are authorized to receive donations to the extent necessary to pay all but one thousand dollars of the sum which may be awarded in said proceedings, but no portion of said seventeen thousand dollars shall be spent in improving Sixteenth street until such donations have been made to the satisfaction of the Commissioners of the District in addition to other conditions herein imposed."

The owners of property abutting on the street within the limits mentioned, except the owners of all that part of block 7 which lies immediately east of Meridian avenue and west of Sixteenth street extended, have, as required by the act, bound themselves, their heirs, grantees, and successors in estate therein forever, never to allow any building or obstruction to be erected within the lines inclosed between

the building lines of Sixteenth street northwest, extended, on the same lines as those existing within the boundary.

Condemnation proceedings were instituted to take all that part of block 7 which lies immediately east of Meridian avenue and west of Sixteenth street, for public use in widening Sixteenth street, extended, so as to make it conform to the width of said street within the boundary. The award of the jury in the proceedings amounted to $13,500, and this sum was paid out of the appropriation of $17,000 as authorized by the act.

This act further authorized the Commissioners to receive donations to the extent necessary to pay all but $1,000 of the sum awarded as damages, and prohibited any expenditure in improving Sixteenth street until such donations had been made to the satisfaction of the Commissioners.

No donations have been received to pay any part of the award in the condemnation proceedings, and it is the opinion of the Commissioners that none will be made. They therefore recommend that the prohibition as to the expenditure for improving Sixteenth street, extended, be removed, and that they be authorized to expend the remainder of the appropriation in improving said street.

It is suggested that the following paragraph be inserted in the District appropriation bill:

The Commissioners of the District of Columbia are hereby authorized to expend in improving Sixteenth street northwest, extended, from Boundary to Morris street, the unexpended balance of the appropriation of seventeen thousand dollars, appropriated for said street by the "act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirty, eighteen hundred and ninety-two, and for other purposes," approved March 3, 1891; and said balance shall become immediately available.

A plat of the street is herewith inclosed.

Very respectfully, your obedient servant,

WM. T. ROSSELL,
Captain of Engineers, U. S. A., Engineer Commissioner, D. C.

Hon. A. M. DOCKERY,
Chairman Subcommittee on Appropriations, District of Columbia,
House of Representatives.

HEALTH DEPARTMENT.

WASHINGTON, D. C., *February 19, 1892.*

GENTLEMEN: I have the honor to submit the following memoranda showing the necessity for employment of an inspector of dairy products who shall be an analytical chemist, under control of the Health Department, District of Columbia, and expense which would follow such an appointment.

There is no chemist to whom we can readily apply and have speedily analyzed milk, butter, and other articles of food, for which we have almost daily application.

I would therefore recommend, amendatory to my estimates for the support of this department for the fiscal year ending June 30, 1893, the following:

An inspector of dairy products who shall be an analytical chemist, at a salary of	$1,200
For furnishing laboratory with proper appliances, office furniture, record books, and blank forms	800
Total	2,000

This is a rough estimate of the sum needed for the commencement and support of this service for one year, after which it is presumed that the current expenses will not exceed $1,400.

An offset to this expenditure, in the shape of fines for violations of the ordinances and laws regarding the sale of unwholesome food in the District of Columbia, will probably equal, if not exceed, the appropriation asked for.

Provision for the immediate establishment of this service is imperatively demanded in the interest of the public health. Milk is extensively used as an article of diet both for healthy persons and invalids, and it enters largely into all hospital, prison, and workhouse dietaries.

The adulterations most commonly practiced are addition of water and subtraction of cream, but other impurities and adulterations of a more serious character are resorted to by dishonest dealers, such as mashed brains, chalk, gums, decoctions of white carrots, starch, and turmeric. These substances render milk unfit for human food.

Adulterations by additions of animal matter (which is of frequent occurrence) in

a state of partial decay, or in the transition stage of putrefaction, is not merely unwholesome, but poisonous. While adulterations of an organic nature may be detected by the microscope, chemical analysis is absolutely necessary for the detection of mineral impurities.

That a great many diseases are caused and others aggravated by the use of adulterated milk is apparent to every medical practitioner in this city.

I therefore respectfully request and strongly urge that the appropriation asked for be made in the interest of the health of the Washington public.

Very respectfully,

C. M. HAMMETT, M. D.,
Health Officer.

The COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

The Commissioners earnestly recommend that the appropriation above requested be made.

JOHN W. ROSS.
J. W. DOUGLASS.
WM. T. ROSSELL.

Statement of expenditures on account of appropriation to prevent the spread of scarlet fever and diphtheria, 1892.

C. L. Demarest, medical sanitary inspector, $1,500 per annum, July 1 to August 31, 1891	$252.80
C. J. Osmun, medical sanitary inspector, $1,500 per annum, September 1, 1891, to January 31, 1892	624.90
C. Z. Landreau, clerk and assistant inspector, $1,200 per annum, November 20, 1891, to January 31, 1892	239.17
G. T. Richardson, driver, $500 per annum, July 1, 1891, to January 31, 1892	292.60
Rent of stable	60.53
Saddlery	63.06
Forage	116.34
Destruction of bedding, etc	49.75
Horseshoeing	12.75
Printing	44.76
Hire of horses and vehicles	84.50
Disinfectants	88.72
Manure fork, 25 feet of rubber hose, coupling and nozzle, curtain for ambulance, rubber coat and leggings, oil, tacks, sponge, and chamois skin	27.74
Total expenditures to February 15, 1892, per auditor's books	1,957.62

Respectfully submitted.

J. T. PETTY,
Auditor District of Columbia.

FEBRUARY 20, 1892.

INTEREST AND SINKING FUND.

TREASURY OF THE UNITED STATES,
Washington, February 25, 1892.

SIR: In reply to your verbal request for certain estimates in connection with the sinking fund of the District, I beg to inclose herewith the result of the calculations desired.

It will be seen that a change in the method of providing for such fund will necessitate an increase in the amount to be appropriated for the present and several years to come.

The present method adjusts the burden equitably during the life of the bonds and is preferable because of its simplicity and adaptability to take advantage of favorable conditions in the price of such bonds.

Respectfully, yours,

E. H. NEBEKER,
Treasurer United States,
Ex-officio Commissioner Sinking Fund, District of Columbia.

Hon. A. M. DOCKERY,
Chairman Subcommittee on Appropriations for the District of Columbia.

FISCAL YEAR 1893.

Amounts required for interest and sinking fund for the funded debt of the District of Columbia, exclusive of the water-stock bonds, if the amounts for each purpose were separated, and the whole debt was required to be redeemed at the date of maturity of the 3.65 per cent bonds in 1924, which is the basis on which the sinking fund was originally estimated.

FUNDED DEBT AS IT WILL APPEAR JULY 1, 1892.

Principal of bonds.		Interest required.
$14,033,600, at 3.65 per cent interest		$512,226.40
2,400,000, at 3.50 per cent interest		84,000.00
870,400, at 5 per cent interest		43,520.00
576,800, at 6 per cent interest		34,608.00
677,100, at 6 months interest at 6 per cent, and 6 months at 3.50 per cent		32,162.25
44,400, at 6 months and 26 days at 7 per cent, and 259 days at 3.50 per cent		2,846.46
18,602,300	Total interest required	709,363.11
	From 1892 to date of maturity of 3.65 per cent bonds is 32 years, and one thirty-second part of $18,602,300 would be the sinking fund required, which is	581,321.67
	Total for interest and sinking fund	1,290,684.98
	This is in excess of the amount originally submitted	76,737.00

In addition to the foregoing described bonds outstanding, there have been purchased for the sinking fund for the water-stock bonds the following:

$166,350, 6 per cent bonds, interest for one year		$9,981
19,000, 7 per cent bonds, interest for one year		1,330
21,000, 5 per cent bonds, interest for one year		1,050
206,350		12,361

To properly adjust the sinking fund for the water-stock bonds, three bonds should be treated as if outstanding, and an additional appropriation of $6,448.44 for sinking fund and $12,361 for interest should be made; the amount for interest to be placed to the credit of the sinking fund for water-stock bonds and authority given to redeem the bonds with the sinking fund provided for the balance of the funded debt at the maturity of the water-stock bonds in 1901 and 1903.

The appropriation of $44,610 annually from the water revenues need not be increased. The appropriations required for 1893 would then be as follows:

For interest on funded debt exclusive of water bonds	$721,724.11
For sinking fund	587,770.31
Total	1,309,494.42

This sum is in excess of the estimates submitted, $95,546.45.*

The $44,610 from the water revenues should still be appropriated to carry out the requirements of the law authorizing the issue of the water-stock bonds.

The foregoing estimates contemplate that the amount provided for the sinking fund could be expended in the purchase of bonds at par, while, as a matter of fact, none of the bonds of the District can now be purchased at their par value, the 3.65s commanding a premium of about 12 per cent, and other bonds in proportion to the rate of interest they bear and the time they have to run.

The estimate of $1,213,947.97 for interest and sinking fund to be annually appropriated from and after the fiscal year 1882 until the date of maturity of the 3.65 per cent bonds, in 1924, was made to adjust the burden equally, for it was found that to provide a sinking fund to retire each loan at its maturity would require a greater amount to be appropriated annually for the first twelve or fifteen years than the finances of the District would justify.

The appropriation for interest and sinking fund was made in one amount in order that the Treasurer could purchase bonds, if the market would justify it, prior to January in the fiscal year for which the appropriation was made, thereby saving six months' interest on the bonds purchased, which would inure to the benefit of the sinking fund, and also to be enabled to pay the interest on the bonds which would be issued under the provisions of the act of June 16, 1880.

All legislation affecting the sinking fund subsequent to 1882 has been made upon the assumption that the sum of $1,213,947.97 for interest and sinking fund would be appropriated annually; notably, the act recommended by the Treasurer authorizing the issue of the 3.50 per cent funding bonds and the figures submitted thereon, and upon which Congress acted.

It will be seen that if the appropriation for interest and sinking fund is made in

* The estimate of interest required as above omitted the item of $162,000 6 per cent bonds due July 1, 1892, which will be retired by the sinking fund, but the interest due thereon on that date will have to be paid out of the appropriation for 1893. Six months' interest on $162,000 at 6 per cent per annum is $4,860, and should be added to the estimate for interest as above.

separate amounts the aggregate will be greater than the estimate originally presented, and the efficiency of the sinking fund greatly impaired. There will also be frequent deficiencies to be provided for, arising from the necessity of paying interest upon bonds issued in satisfaction of judgments of the Court of Claims, and premium upon bonds purchased for the sinking fund.

TREASURY OF THE UNITED STATES,
Washington, February 26, 1892.

SIR: In answer to a telegram from the clerk of your committee, I have the honor to submit the following estimates, which are based on estimates of amounts required for account of increasing the water supply of Washington, D. C., for the fiscal years 1892 and 1893, furnished this office by Col. Geo. H. Elliot, U. S. Army.

Balance due United States July 1, 1891, was	$831,501.87
Amount required during fiscal year 1892 is $2,828.64, one-half of which is to be returned to United States is	1,414.32
	832,916.19
Deduct one-nineteenth part	43,837.69
Due United States July 1, 1892	789,078.50
Amount required during fiscal year 1893 is $480, one-half of which is to be returned to United States is	240.00
	789,318.50
Deduct one-eighteenth part	43,851.03
Due United States July 1, 1893	745,467.47

The estimate of the sums required for interest and sinking fund for 1893, based upon the figures furnished by Col. Elliot, would be as follows:

Sinking fund one-eighteenth part of $789,318.50		$43,851.03
Interest at 3 per cent on $789,078.50	$23,672.35	
Interest on amount advanced during fiscal year 1893, $240, averaging 3 per cent for 6 months	3.60	
		23,675.95
Total for interest and sinking fund for fiscal year 1893		67,526.98

This sum may not agree with the estimated amount required, based upon the figures furnished your committee by Col. Casey.

Acting upon the advice of the First Comptroller, the estimates for interest and sinking fund upon one-half of the cost of the 48-inch main and Fourteenth street main and connections were made to become available upon the first day of the fiscal year for which the appropriations were made, that is, the estimate for interest submitted was for interest from July 1, 1891, becoming due and payable July 1, 1892; the sinking fund also to be applied at that time.

The estimates submitted for 1893 were for the combined cost of the two mains, as the law seemed to contemplate, and are as follows:

Cost of 48-inch main and connections	$564,290.09
Cost of Fourteenth street main and connections	27,535.29
Total	591,825.38
One-half of which is to be refunded	295,912.69
One twenty-fifth part to be refunded on July 1, 1892	11,836.51
Due United States July 1, 1892	284,076.18
One twenty-fifth part to be refunded on July 1, 1893	11,836.51
Due United States July 1, 1893	272,239.67

If information is desired only upon the 48-inch main, as your telegram would seem to indicate, it would be as follows:

Cost of 48-inch main and connections	$564,290.09
One-half of which to be refunded	282,145.04
One twenty-fifth part to be refunded on July 1, 1892	11,285.80
Due United States July 1, 1892	270,859.24
One twenty-fourth part of $270,859.24 to be refunded July 1, 1893	11,285.80
Due United States July 1, 1893	259,573.44

Very respectfully,

E. H. NEBEKER,
Treasurer United States,
Ex-officio Commissioner Sinking Fund, District of Columbia.

Hon. A. M. DOCKERY,
Chairman Subcommittee on Appropriations for the District of Columbia,
House of Representatives.

AQUEDUCT TUNNEL, WASHINGTON, D. C.

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., February 24, 1892.

SIR: In compliance with your telegraphic request of yesterday, I submit the following statement of expenditures, actual and estimated, during the fiscal years 1891, 1892, and 1893, from appropriations made for increasing the water supply of Washington, D. C. (Washington Aqueduct tunnel), as authorized by joint resolution of October 19, 1888.

Amount expended during the fiscal year ending June 30, 1891	$2,816.07
Amount expended during the current fiscal year to January 30, 1892	3,117.26
Amount to be expended during balance of fiscal year to June 30, 1892	240.00
Amount to be expended, under ordinary conditions, during fiscal year ending June 30, 1893	480.00

All this, of course, contemplates a watch only over the works. If some contingency should arise, not now anticipated, more money would be needed.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

Hon. W. S. HOLMAN,
Chairman Committee on Appropriations,
House of Representatives, Washington, D. C.

CONSTRUCTION AND REPAIR OF BRIDGES.

DISTRICT OF COLUMBIA, ENGINEER DEPARTMENT,
Washington, February 20, 1892.

SIR: In accordance with your instructions I have the honor to submit herewith a detailed account of the probable expenses for construction and repair of bridges for the year ending June 30, 1893.

With this revision the second item under "care of bridges," p. 27, District of Columbia bill, should read "for construction and repair of bridges, fourteen thousand five hundred dollars."

Very respectfully, your obedient servant,

G. J. FIEBEGER,
Captain of Engineers, U. S. Army.

Hon. A. M. DOCKERY,
Chairman Subcommittee on Appropriations.
(Through Captain Wm. T. Rossell, Engineer Commissioner, District of Columbia.)

WASHINGTON, D. C., *February 12, 1892.*

CAPTAIN: In accordance with your instructions of the 9th instant I have the honor to submit my report on the probable cost of repairing the following bridges during the year July 1, 1892, to July 1, 1893:

New Free or Aqueduct Bridge:		
Lumber for flooring	$4,750.38	
Labor	1,443.51	
Spikes	120.00	
Painting, scraping, and materials	1,600.00	
		$7,913.89
M street Bridge over James Creek Canal:		
Lumber for flooring	199.58	
Labor	64.48	
Spikes	9.00	
		273.06
Anacostia Bridge:		
Lumber for flooring	710.49	
Labor	100.00	
Spikes	24.00	
		834.49
P street Bridge:		
Repairs to iron work		1,500.00
Pennsylvania avenue Bridge:		
Painting, scraping, and materials	1,650.00	
Lumber for repair of floor	100.00	
Spikes	9.00	
		1,759.00

Woodley Lane Bridge:		
Painting, scraping, and materials	$550.00	
Lumber	50.00	
Labor	10.00	
Spikes	4.50	
		$614.50
Chain Bridge:		
Top lateral struts are constructed of Phœnix iron and should have holes drilled in flanges to let the water out, constructed thus and closed at end with castings (holes drilled)		50.00
		12,444.94

This amount is required to keep bridges in order, no provision being made for contingencies.

For masonry tools	100.00
Total	12,544.94

R. D. McCLURE,
Bridge Inspector.

Capt. G. J. FIEBEGER,
Corps of Engineers, U. S. Army.

Estimate of bridge inspector	$12,544.94
15 per cent for contingencies	1,881.74
Total	14,426.68

In round numbers, $14,500.

The item for "ordinary care of bridges" should remain $5,000.
The total amount would be $19,500.

GIRLS' REFORM SCHOOL.

For the erection and completion, according to plans and specifications to be prepared by the inspector of buildings and approved by the Commissioners of the District of Columbia, of a suitable building or buildings, on the United States Reform School farm in said District, to be used as a reform school for girls, the sum of thirty-five thousand dollars, to be expended under the direction of said Commissioners, one-half of said sum to be charged against the revenues of the District of Columbia. Said building shall be erected on a site to be selected by said Commissioners and the trustees of the Reform School of the District of Columbia: *Provided*, That not more than fifty acres of said Reform School farm shall be appropriated for the reform school for girls herein provided for.

Mr. DOCKERY. This was drawn on your and Gen. Henderson's request, and is recommended by the Commissioners of the District of Columbia.

J. W. DOUGLASS,
President of the Board of Commissioners.

Number of cases against females arrested under 21 years of age during the fiscal year ending June 30, 1891.

Charge.	Under 21 and over 16 years of age.	Under 16 years of age.	Charge.	Under 21 and over 16 years of age.	Under 16 years of age.
Affray	25	3	Keeping disorderly house	1	.....
Assault	42	12	Keeping bawdy house	1	.....
Assault and battery	57	13	Loud and boisterous	2	2
Assault with intent to kill	1	.....	Larceny from the person	1	.....
Assaulting officer	2	.....	Obtaining goods by false pretense	1	1
Cruelty to children	2	.....	Perjury	1	.....
Concealed weapons	5	.....	Petit larceny	78	24
Contempt of court	7	1	Profanity	74	9
Disorderly conduct	357	58	Receiving stolen goods	1	.....
Destroying private property	2		Suspicion	38	13
Destroying public property	.....	.....	Threats	12	5
Enticing prostitution	6	1	Trespass	3	2
Fugitive from justice	4	3	Vagrancy	206	34
Fugitive from parents	17	.....	Violation humane law	1	.....
Grand larceny	7	18	Violation police regulations	2	.....
Housebreaking, day	.....	1	Violation policy law	3	.....
Intoxication	22	1	Violation United States witness law	21	4
Intoxication and disorderly	27	2	Violation District of Columbia ordinances	14	2
Interfering with officer	1	3			
Incorrigibility	1	.....			
Indecent exposure	5	.....			
Insanity	3	6	Total	1,053	218

Statistics of valuation and taxation of the twenty largest cities of the United States for 1880 and 1890.

[From reports on file in tenth division of Census Office, January 30, 1892.]

	City.	Population.		Total assessed valuation.		Taxation, 1880. *a*				Taxation, 1890.			
		1880.	1890.	1880.	1890.	Total. *b*	City.	Rate on each $100 of valuation. Total.	Rate on each $100 of valuation. City.	Total. *b*	City.	Rate on each $100 of valuation. Total.	Rate on each $100 of valuation. City.
1	New York, N. Y.	1,206,299	1,515,301	*c*$1,094,069,335	$1,696,978,390	*c*$28,226,989	*c*$24,475,927	*c*$2.58	*c*$2.24	$33,212,035	*d*$29,032,762	$1.96	$1.71
2	Chicago, Ill	503,185	1,099,850	*c*117,970,035	219,354,368	*c*5,112,375	*c*3,776,451	*c*4.34	*c*3.20	No report.	*e*9,558,335	.....	4.36
3	Philadelphia, Pa	847,170	1,064,964	*c*581,729,759	974,338,294	11,976,532	11,775,720	2.05	2.02	13,073,817	12,553,943	1.34	1.29
4	Brooklyn, N. Y.	566,663	806,343	*c*232,925,699	452,758,601	6,067,773	4,253,229	1.87	1.24	11,668,212	8,709,441	2.58	1.92
5	St. Louis, Mo	350,518	451,770	165,288,400	245,932,200	3,672,683	3,017,427	2.23	1.83	5,359,739	4,617,988	2.18	1.88
6	Boston, Mass	362,839	448,477	613,322,691	822,041,800	7,666,534	7,261,741	*f*1.25	1.18	11,187,692	9,714,574	1.36	1.18
7	Baltimore, Md	332,313	434,439	*c*244,043,181	278,249,691	2,977,581	2,520,000	1.22	1.03	5,641,512	5,147,619	2.0275	1.85
8	San Francisco, Cal	233,959	298,997	244,477,360	301,438,040	5,476,292	4,131,667	2.24	1.69	5,332,639	3,584,299	1.77	1.19
9	Cincinnati, Ohio	255,139	296,908	169,305,635	177,773,240	4,926,911	4,070,225	2.91	2.40	*g*4,739,435	*g*3,914,567	2.67	2.20
10	Cleveland, Ohio	160,146	261,353	*c*70,548,104	99,614,055	2,143,947	1,723,304	3.04	2.44	2,918,692	2,370,815	2.93	2.38
11	Buffalo, N. Y.	155,134	255,664	*c*83,910,583	*h*162,359,450	1,566,422	1,036,501	1.87	1.24	3,193,313	2,383,789	1.97	1.47
12	New Orleans, La	216,090	242,039	91,794,350	131,905,059	2,405,965	1,859,257	2.63	2.03	2,743,625	2,664,482	2.08	2.02
13	Pittsburg, Pa	156,389	238,617	93,727,903	*i*157,959,041	2,501,326	2,216,302	2.40	2.36	3,021,338	2,524,823	1.91	1.60
14	Washington, D. C.	*j*177,624	*j*230,392	*j*99,401,787	*i*153,307,541	*j*1,469,254	*j*1,469,254	*j*1.48	*j*1.48	*j*2,280,110	*j*2,280,110	*j*1.49	*j*1.49
15	Detroit, Mich	116,340	205,876	*c*83,198,040	161,828,570	1,217,691	824,230	1.46	.99	2,879,004	2,545,327	1.78	1.57
16	Milwaukee, Wis	115,587	204,468	*c*55,875,969	105,484,055	1,133,841	902,537	2.04	1.62	2,382,683	1,961,303	2.26	1.86
17	Newark, N. J	136,508	181,830	*c*83,364,410	113,995,425	1,737,113	1,182,325	2.08	1.42	2,046,335	1,325,232	1.80	1.16
18	Minneapolis, Minn	46,887	164,738	23,415,733	136,944,372	341,019	259,064	1.46	1.11	2,643,026	2,108,943	1.93	1.54
19	Jersey City, N. J	120,722	163,003	*c*58,411,959	*k*72,367,467	1,786,989	1,489,088	3.06	2.55	*k*2,367,905	*k*2,020,757	*k*3.27	*k*2.79
20	Louisville, Ky	123,758	161,129	*c*65,809,000	81,306,916	1,499,487	1,200,056	2.28	1.82	2,288,790	1,764,360	2.815	2.17

a From Volume VII, Tenth Census Report.
b Includes State, county, city, and school levies.
c For the fiscal year ending December 31, 1879.
d Includes $3,258,215 levied for county purposes.
e From the city comptpoller's annual statement for the fiscal year ending December 31, 1890.
f Actual total rate 1.24999.
g From county auditor's report (Hamilton County) for 1890 to this office.
h As reported by the mayor, February 9, 1891. The annual report of State assessors for 1890 gives the total assessed value as $160,266,382.
i Mr. E. S. Morrow, city controller, reports local assessment as follows: Real estate, $174,000,000; personal property, $32,000,000, for 1891.
j For the District of Columbia.
k For the fiscal year 1889.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 496.

JOHN WARREN.

MARCH 1, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CROSBY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 4489.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4489) for the relief of John Warren, respectfully report:

The soldier was captain of Company B, Sixty-third Regiment New York Volunteers, and was, on the 17th day of September, 1862, dishonorably discharged from the service of the United States for absenting himself from his company without leave. The facts were as follows:

Capt. Warren, at Newport News, where his brigade had arrived after several severe engagements, made an application for a leave of absence because of sickness in his family, and based his claim on the fact that he had been for twelve months in active service without any leave. This application was approved by the colonel of his regiment and by the general of the brigade. When he presented the application to the division general the latter remarked that he would consider the matter on their arrival at Alexandria. While Capt. Warren was awaiting orders with his company on the wharf at Newport News he stepped out of the ranks to speak to division general Richardson, who was riding rapidly by, to remind him of his promise. Capt. Warren followed Gen. Richardson for some distance, but failed to overtake him, and started to overtake his regiment, but, on account of rain and darkness, was unable to do so until 2 o'clock the next morning, when he joined them at Chain Bridge, after having traveled all the way on foot. For this he was dishonorably discharged on the recommendation of his colonel, John Burke, who was court-martialed and cashiered for cowardice in the face of the enemy on charges brought by Capt. Warren.

It would appear that the absence of the soldier was very brief and accidental; and as he probably would not have been discharged except for the recommendation of Col. Burke, we believe he should be granted an honorable discharge from the service, and that the records of the War Department should be so amended as to remove the charge of absence without leave standing against said Capt. Warren.

The testimony of Col. Burke in this case, with such a record as he made for himself in leaving the battlefield while his regiment was engaged with the enemy, is not entitled to any weight with the committee.

The committee recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 497.

JAMES M. THOMPSON.

MARCH 1, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CROSBY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1777.]

The Committee on Military Affairs, to which was referred the bill (H R. 1777) to remove the charge of desertion from the record of James M. Thompson, have duly considered the same and submit the following report:

This bill directs the Secretary of War to remove the charge of desertion from the record of James M. Thompson, and grant him an honorable discharge as of date April 8, 1865. The record shows that he was duly mustered into the service on February 1, 1865, to serve three years, and his company was duly mustered out on April 18, 1866, and said soldier was with his said company or on detached service up to April 10, 1866.

The evidence shows his absence from April 10, 1866, up to April 18, 1866, when he would have been mustered out with his company, to have arisen from sore eyes. Your committee believe he should be relieved from the charge and discharged as of date April 10, 1866.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 498.

ABRAM GROAT.

MARCH 1, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CROSBY, from the Committee on Military Affairs submitted the following

REPORT:

[To accompany H. R. 2430.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2430) for the relief of Abram Groat, submit the following report:

Abram Groat, late of Company K, Forty-fourth Regiment New York Infantry, was tried by general court-martial at Culpeper, Va., in October, 1863, and convicted of desertion. No sentence was imposed and he was restored to duty and participated in many battles till July 10, 1864, when while on picket duty he was relieved and was informed that the proceedings of the court, which had been mislaid, had been found and that he was sentenced. He was imprisoned at Fort Jefferson, Dry Tortugas, Fla., and remained there till March, 1865, when he was pardoned by President Lincoln, being granted pay and allowances.

In view of his satisfactory services after the trial and the fact that a pardon was granted, your committee deem it but an act of justice to remove the record of desertion and to grant him an honorable discharge. They therefore recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 499.

LOAN OF FLAGS, ETC., DURING GRAND ARMY ENCAMPMENT.

MARCH 1, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. LAPHAM, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. Res. 96.]

The Committee on Military Affairs, to whom was referred joint resolution 66, submit the following report:

The joint resolution (H. Res. 66) to authorize the loan of certain ensigns, flags, and signal numbers for the purpose of decorating the streets and buildings of Washington, on the occasion of the Grand Army encampment in September, 1892, was submitted to the War Department, and certain amendments suggested, with the statement that there was no objection to the resolution as so amended and commending it to the favorable consideration of the committee.

The substitute is the original resolution amended to comform to the suggestions of the War Department, and this committee recommends its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 500.

AMENDMENT TO PENSION LAW.

MARCH 1, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MARTIN, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5951.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5951) to amend section 3 of the pension law approved June 27, 1890, submit the following report:

Your committee recommend the passage of this bill, with the amendments herein set forth, for the following reasons, viz: The third section of the act of June 27, 1890, undoubtedly intended that the widow and children of the soldier or sailor who died in the service should be entitled as fully to the benefits of that act as the widow and children of him who did not die until after he had received an honorable discharge; and yet, under the ruling of Assistant Secretary Bussey, on appeal from the Pension Bureau to the Secretary of the Interior, the heirs of him who died in the service without an honorable discharge are debarred from the benefits of that act.

It was likewise the intention of the act of June 27, 1890, that the insane, imbecile, or permanently helpless child of a deceased enlisted man or officer who had an honorable discharge or had died in the service should receive the benefits of that act, regardless of the age of the child; and yet, under a ruling of Assistant Secretary Bussey, such child can not participate in such benefits unless, at the time such act took effect, the child was then under 16 years of age.

It was to cure said act this bill was introduced, and your committee, therefore, recommend its passage.

The object of the second section of the bill is to cure all applications heretofore made under the act of June 27, 1890, so that the United States may do justice to the applicants without requiring the filing of new applications.

We do recommend that the first section of the bill be amended as follows, to wit:

After the word "disability," in line 33, on page 2, add the words "regardless of the age of the child, and shall be paid to the person having the care and custody of such child."

Section 2 of said act, in order to more perfectly express its real intent, we recommend to be amended as follows, to wit: Strike out all after the words "to be," in line 1, on page 3, and insert in lieu thereof these words, viz, "applicable to, and shall cure, all applications heretofore made under the terms of the act of June 27, 1890, mentioned in the title of this act."

Thus amended, your committee recommend the passage of this act.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 501.

TO PLACE WOOL ON FREE LIST AND REDUCE DUTIES ON WOOLEN GOODS.

MARCH 1, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SPRINGER, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany H. R. 6007.]

The Committee on Ways and Means, to which was referred the bill (H. R. 6007) "to place wool on the free list and to reduce the duties on woolen goods," having had the same under consideration, report the same back, with the recommendation that it do pass.

THE PROVISIONS OF THE BILL.

The bill provides for the admission free of duty of all wools, hair of the camel, goat, alpaca, and other like animals, and of wool and hair on the skin, noils, top waste and other wastes, and rags composed wholly or in part of wool; and also repeals what are known as compensatory duties on woolen goods and reduces the ad valorem duties on such goods. It also repeals the compensatory duties upon carpets of all kinds, rugs, and mats, and reduces the ad valorem duties thereon from 40 per cent ad valorem to 30 per cent ad valorem. It also reduces the duties upon certain qualities of waste which have been advanced beyond the condition of scoured wool, by the use of machinery or by the application of labor, to 25 per cent ad valorem. The duty on shoddy, mungo, and certain other wastes is put at 25 per cent ad valorem. The provisions of the bill are to take effect the first day of January, 1893. It also provides that goods in public store or warehouse under bond at that time may be taken out by the payment of the rates provided for in this bill. This provision renders it unnecessary to provide drawbacks and will enable manufacturers and dealers to dispose of the higher-taxed stocks on hand before the bill takes effect.

The rates of ad valorem duties prescribed in the act of October 1, 1890, were fixed at from 30 to 60 per cent; and in connection with these ad valorem rates, duties per pound and per square yard were imposed upon woolen goods and carpets embraced in Schedule K of said act. The combined ad valorem and specific duties under existing law were estimated by the Treasury Department pending the consideration of the bill in the Fifty-first Congress, based upon the actual importations of the year ending June 30, 1889, at an average of 91.76 per cent on woolen goods and carpets. This was an increase over the average rates then in existence, which were 67.15 per cent. If the bill reported by your committee should become a law, the paragraphs

relating to woolen goods and carpets would be so amended as to read as follows (the marginal figures indicating the rates ad valorem of the combined ad valorem and specific duties, under existing law, as estimated by the Treasury Department, as above stated) namely:—

THE LAW AS PROPOSED.

Equivalent ad valorem rate under existing law.

126.28. 391. On woolen and worsted yarns made wholly or in part of wool, worsted, the hair of the camel, goat, alpaca, or other animals, valued at not more than 30 cents per pound, the duty shall be 35 per cent ad valorem.

103.93. Valued at more than 30 cents and not more than 40 cents per pound, the duty shall be 35 per cent ad valorem.

Valued at more than 40 cents per pound, the duty shall be 35 per cent ad valorem.

392. On woolen or worsted cloths, shawls, knit fabrics, and all fabrics made on knitting machines or frames, and all manufactures of every description made wholly or in part of wool, worsted, the hair of the camel, goat, alpaca, or other animals, not specially provided for in this act, valued at not more than 30 cents per pound, the duty shall be 40 per cent ad valorem.

Worsteds, 175.65.

Valued at more than 30 and not more than 40 cents per pound, the duty shall be 40 per cent ad valorem.

Worsteds, 146.99.

Valued at above 40 cents per pound, the duty shall be 40 per cent ad valorem. *a*

393. On blankets, hats of wool, and flannels for underwear composed wholly or in part of wool, the hair of the camel, goat, alpaca, or other animals, valued at not more than 30 cents per pound, the duty shall be 25 per cent ad valorem.

81.94.

Valued at more than 30 and not more than 40 cents per pound; valued at more than 40 cents and not more than 50 cents per pound; upon all the above-named articles, the duty shall be 30 per cent ad valorem. *b*

93-62.

On blankets and hats of wool composed wholly or in part of wool, the hair of the camel, goat, alpaca, or other animal, valued at more than 50 cents per pound, the duty shall be 35 per cent ad valorem.

Flannels composed wholly or in part of wool, the hair of the camel, goat, alpaca, or other animals, valued at above 50 cents per pound shall be classified and pay the same duty as women's and children's dress goods, coat linings, Italian cloths, and goods of similar character and description provided by this act. [That is, 35 and 40 per cent ad valorem, according to quality.]

110-84.

394. On women's and children's dress goods, coat linings, Italian cloths, and goods of similar character or descrip-

a The Treasury expert did not furnish the ad valorem rates upon woolen cloths, knit fabrics, etc., in this paragraph (392), but only the rates on worsteds, in classes 1 and 2. The rates ad valorem under the whole paragraph were pointed out in the testimony of Mr. Ernest Werner before the Senate Finance Committee (*post* p. 5), wherein it appears that the average on such goods in this paragraph, upon the samples he submitted, under existing law, was 120.93 per cent. Upon one of the samples, the rate was 151.85 per cent ad valorem.

b *No imports* reported and no rates given.

Equivalent ad valorem rate under existing law.

tion of which the warp consists wholly of cotton or other vegetable material, with the remainder of the fabric composed wholly or in part of wool, worsted, the hair of the camel, goat, alpaca, or other animals, valued at not exceeding 15 cents per square yard, 35 per cent ad valorem. 88.37

Valued at above 15 cents per square yard, 35 per cent ad valorem. 88.37.

Provided, That, on all such goods weighing over four ounces per square yard, the duty shall be 35 per cent ad valorem. *a*

395. On women's and children's dress goods, coat linings, Italian cloth, bunting, and goods of similar description or character composed wholly or in part of wool, worsted, the hair of the camel, goat, alpaca, or other animals, and not specially provided for in this act, the duty shall be 40 per cent ad valorem. 110.33.

Provided, That, on all such goods weighing over four ounces per square yard, the duty shall be 40 per cent ad valorem. 92.76.

396. On clothing, ready made, and articles of wearing apparel of every description, made up or manufactured wholly or in part, not specially provided for in this act, felts not woven and not specially provided for in this act, and plushes and other pile fabrics; all the foregoing, composed wholly or in part of wool, worsted, the hair of the camel, goat, alpaca, or other animals, the duty shall be 45 per cent ad valorem. 84.72.

397. On cloaks, dolmans, jackets, talmas, ulsters, or other outside garments for ladies and children's apparel and goods of similar description, or used for like purposes, composed wholly or in part of wool, worsted, the hair of the camel, goat, alpaca, or other animals, made up or manufactured wholly or in part, the duty shall be 45 per cent ad valorem. *b* 82.10.

398. On webbings, gorings, suspenders, braces, beltings, bindings, braids, galloons, fringes, gimps, cords, cords and tassels, dress trimmings, laces and embroideries, head nets, buttons, or barrel buttons, or buttons of other forms, for tassels or ornaments, wrought by hand or braided by machinery, any of the foregoing which are elastic or nonelastic, made of wool, worsted, the hair of the camel, goat, alpaca, or other animals, or of which wool, worsted, the hair of the camel, goat, alpaca, or other animals is a component material, the duty shall be 40 per cent ad valorem. 69.11

399. Aubusson, Axminster, Moquette, and Chenille carpets, figured or plain, carpets woven whole for rooms, and all carpets or carpeting of like character or description, and oriental, Berlin, and other similar rugs, the duty shall be 30 per cent ad valorem. 65.22.

400. Saxony, Wilton, and Tournay velvet carpets, figured or plain, and all carpets or carpeting of like character or description, 30 per cent ad valorem. 71.92.

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a No imports reported and no rates given.

b See also testimony of Daniel McKeever (*post* pp. 5, 6) wherein it appears that some of the articles embraced in this paragraph are taxed in the existing law as high as 255 per cent ad valorem.

Equivalent ad valorem rate under existing law.	
82.36.	401. Brussels carpets, figured or plain, and all carpets or carpeting of like character or description, 30 per cent ad valorem.
82.25.	402. Velvet and tapestry velvet carpets, figured or plain, printed on the warp or otherwise, and all carpets or carpeting of like character or description, 30 per cent ad valorem.
81.42.	403. Tapestry Brussels carpets, figured or plain, and all carpets or carpeting of like character or description, printed on the warp or otherwise, 30 per cent ad valorem.
64.77	404. Treble ingrain, three-ply and all chain Venetian carpets, 30 per cent ad valorem.
65.10.	405. Wool Dutch and two-ply ingrain carpets, 30 per cent ad valorem.
61.83.	406. Druggets and bockings, printed, colored, or otherwise, 30 per cent ad valorem.
	Felt carpeting, figured or plain, 30 per cent ad valorem.
50.00.	407. Carpets and carpeting of wool, flax, or cotton, or composed in part of either, not specially provided for in this act, 30 per cent ad valorem.
50.00.	408. Mats, rugs, screens, covers, hassocks, bed sides, art squares, and other portions of carpets or carpeting made wholly or in part of wool, and not specially provided for in this act, shall be subjected to the rate of duty herein imposed on carpets or carpetings of like character or description. (That is, 30 per cent ad valorem.)

HIGH TAXES POINTED OUT—TESTIMONY OF NEW YORK MERCHANTS.

In order to show the high rates of duty which were imposed by the tariff act of October 1, 1890, on woolen goods, attention is called to the testimony taken by the Committee on Finance of the Senate in the month of June, 1890, pending the consideration of that bill in the Senate. Among others who appeared before the Senate committee was a delegation of persons engaged in the importing of merchandise. They also stated that they represented $500,000,000 of capital employed in domestic mills, and spoke for the business interests of New York generally.

MR. WERNER'S TESTIMONY. *a*

Mr. Ernest Werner said:

The proposed woolen schedules (H. R. 9416) will establish absolutely prohibitive rates on all goods for men's wear worn by the masses.

The tariff of 1883 was practically prohibitive on woolen cloths, cassimeres, etc., costing less than 80 cents per pound (rate 35 cents per pound and 35 per cent ad valorem), of which there were imported in round figures—

1884	$243,000	1887	$713,000
1885	214,000	1888	983,000
1886	314,000	1889	1,000,000

paying an average rate of duty of 93 per cent. The importations of cloths, cassimeres, etc., costing above 80 cents per pound in value (rate 35 cents per pound and 40 per cent ad valorem), paying an average rate of duty of 68 per cent, with total importations of both classes being, in round figures—

1884	$13,200,000	1887	$10,900,000
1885	10,100,000	1888	10,800,000
1886	9,500,000	1889	9,200,000

The cloths, cassimeres, etc., valued at above 80 cents per pound, being goods of high cost, imported for the fine merchant-tailoring trade. In addition to these cloths there

a pp. 24–25.

were imported for men's wear manufactures of worsteds, in 1886, $5,300,000, of which $3,200,000 were in value less than 80 cents per pound; in 1887, $5,100,000, of which $3,600,000 were in value less than 80 cents per pound; in 1888, $5,900,000, of which $4,600,000 were in value less than 80 cents per pound; in 1889, $8,800,000, of which $6,300,000 were in value less than 80 cents per pound; worsteds costing 80 cents per pound or less paying an average rate of duty of 68 per cent as against 72 per cent on goods valued at 80 cents per pound and over.

The duties on worsteds costing 80 cents per pound or less in value have already been advanced by H. R. 9548 to the rate of woolen cloths, etc., costing less than 80 cents per pound; which increases the average rate of duty on them to 93 per cent. As these are the only goods for men's wear which have entered in any appreciable way into competition with domestic manufactures, the following table will show the rates to which these goods will be advanced by the proposed bill, and a comparison with the rates established by tariff of 1883 and the act of May 9, 1890:

Cost sterling.		Equivalent in currency.	Weight per yard.	No. 1.—Duty on worsteds, tariff 1883.					No. 2.—Duty on worsteds, act May 9, 1890, classifying worsteds as woolens.				No. 3.—Proposed duties by H. R. 9416.			
				Weight duty at 18 cents a pound.	Weight duty at 24 cents a pound.	Ad valorem, 35 per cent.	Total duty paid.	Protection.	Weight duty at 35 cents a pound.	Ad valorem, 35 per cent.	Total duty paid.	Protection.	Weight duty at 44 cents a pound.	Ad valorem, 50 per cent.	Total duty paid.	Protection.
s.	d.	Cts.	Ozs.	Cts.	Cts.	Cts.	Cts.	P. ct.	Cts.	Cts.	Cts.	P. ct.	Cts.	Cts.	Cts.	P. ct.
2	0	48	16	18.	.....	16.80	34.80	72½	35	16.80	51.80	107.92	44	24	68	141.33
2	3	54	20	22.50	.....	18.90	41.40	76⅔	43.75	18.90	62.65	116.02	55	27	82	151.85
2	6	60	16	.....	24	21.00	45.00	75	35	21.00	56	93.33	44	30	74	123.33
3	7	86	20	.....	30	30.10	60.10	70	43.75	30.10	73.85	85.87	55	43	98	113.95
3	0	72	20	22.50	.....	25.20	47.70	66¼	43.75	25.20	68.95	95.88	55	36	91	126.66
4	0	96	20	.....	30	33.60	63.60	66¼	43.75	33.60	77.35	80.57	55	48	103	107.30
3	6	84	16	.....	24	29.40	53.40	63⅞	35	29.40	64.40	76.66	44	42	86	108.38
4	6	108	20	.....	30	37.80	67.80	62⅞	43.75	37.80	81.55	75.50	55	54	109	100.92
Average per cent								69⅛	.....	.....	.....	91.47	.....	.....	.....	120.93

This table does not include the cost of transportation, etc., which affords the domestic goods an additional protection of about 10 per cent.

To percentages in Table No. 3 must be added 5 per cent for the proposed restoration of duties on charges and coverings.

MR. M'KEEVER'S TESTIMONY.*a*

Mr. Daniel McKeever made the following statements in regard to the wool schedules:—

One of the articles they propose to raise to 102 per cent, and the other one, under the McKinley bill, to 155 per cent; in one case 50 [30] per cent and the other 100 per cent more than the present duty on precisely the same thing.

One is advanced from 78½ to 102 per cent, and the other from 78½ to 155 per cent. Mr. McKinley has evidently made up his mind that the poor man, if he wants to wear any clothing, shall pay very heavy for it. The first sample is made of mohair, with worsted filling and cotton warp.

I now present sample No. 2, costing 9½ cents a yard, 32 inches wide. The present rate is equal to 80 per cent ad valorem. It is proposed to raise that to 115 per cent.

I also present another sample costing 15½ cents, the present duty being 63 per cent; and it is proposed to raise it to 122 per cent for the reason again, that the goods will run four ounces to the square yard, and is used for linings in these heavy winter coats.

This other sample which I submitted, costing 15½ cents per yard, pays to-day a duty equal to 63 per cent; and it is proposed to raise it to 122. I now submit samples 3 and 3*a*, costing 21½ cents. You will find that these samples bear out the same argument as is shown by the others. It is raised from 60 to 72 per cent. The one costing 31½ cents is raised from 60 to 93 per cent.

A mechanic whose wife can not afford a sealskin garment wants to have the next best thing she can get. Here is an article in which a garment retails for about $15 or $16. It is a very good imitation of regular seal. The completed garment retails for about $15 or $16. The cost of that in England is $2.50 a yard, and the present duty

a pp. 27–30.

50 per cent. It is proposed to raise that duty to 225 per cent; an increase of 350 per cent. I have been informed that there is only one mill in the country which makes this; and if any industry needs such protection as that it ought to die.

In other words, a man or a woman who can only afford to buy a $15 cloak would be compelled to pay a 225 per cent duty.

I beg to call the committee's attention to samples of black mohair serge, marked 1 and 1A, and both costing, in England, 10 cents per yard, both made of exactly the same materials, both used for the same purpose, coat linings, and both to-day paying the same rate of duty, which is equal to 78½ per cent ad valorem.

It is proposed to raise the rates on one of the samples to 102 per cent, while on the other it would be 155 per cent.

Third. I also call your attention to samples of astrachan, which I submitted, covered by section 392.

These goods are not made to-day in this country, although their protection is 80 per cent, and it is proposed to increase this just 100 per cent.

This class of goods is used altogether by the laboring man, mechanic, or farmer; and the same discriminations previously referred to apply here. Hence the present rate of duty should not be increased.

MR. WARNER'S TESTIMONY. *a*

Mr. A. M. Warner made the following statement in regard to the wool schedule:—

Another material, from which are made large quantities of covers for stands, tables, pianos, mantels, and other articles for home use, is wool felt. This article is made in Germany at a cost of about 44 cents per yard. The present rate of duty is about 95 per cent; and by the bill now pending it will be raised to 125 per cent. There are in this country only three leading makers of wool felt; and very naturally they have formed a "combine," and I will say, in passing, that this particular "combine," is the most rank, radical, and rapacious "combine" in the whole category of "combines." For five years they have held the price of this article at 95 cents per yard, with so tenacious a grip that houses in New York carrying ten millions of dollars in capital have had to succumb to their power. This article is also used very largely for women's wear; and not a felt skirt has a poor working girl thrown around her form in five years on which she has not had to pay a round sum as a tribute to these protected monopolists. This combine is not only fostered and protected by the present tariff: it is directly created by it, and could not exist for one moment without it: yet the pending bill will raise the rate 30 per cent higher.

THE RATES UNREASONABLY HIGH.

Notwithstanding Congress was in full possession of the facts above set forth, showing the enormous rates which the bill then pending imposed upon woolen goods, it pressed the bill to final passage; and these rates, many of which are prohibitory, and all of which are unreasonably high, are those now embraced in the act of October 1, 1890. There can be no good reason for maintaining such high taxes upon articles which are so necessary to the health and comfort of the people. A peculiar feature of these rates is, that, owing to the high rates per pound and per square yard added to the ad valorem rates, the duties were highest upon the cheaper grades of goods worn by the masses of the people and lowest upon the high-priced goods worn by those in better circumstances. Upon no principle of taxation, which regards in the slightest degree the element of equality, can such rates be justified upon any articles of necessity, and especially upon articles so universally required by all classes of people as those embraced in the pending bill.

THE THEORY OF COMPOUND DUTIES.

The theory upon which the wool schedule in the law of March 2, 1867, was enacted was stated by Gen. Garfield in the report of the Ways and Means Committee in 1880, to be as follows:

That, upon the several grades of imported wool, a duty should be imposed sufficient to promote the growth of sheep husbandry in the United States. A specific

a p. 85.

duty was then imposed on woolen goods as nearly as possible equal to the wool which entered into their manufacture. This was not protection but simply an equivalent duty which placed the woolen manufacture on a free-trade level. To this specific duty was then added a duty of thirty-five per cent ad valorem on woolen goods, as a protection to the manufacturer against foreign competition.

The National Association of Wool Manufacturers, in a communication to the Secretary of the Treasury in October, 1885, stated the theory upon which the wool legislation is based as follows: *a*

The wool manufacturer is to be placed in the same position as if he had his wool and other raw material free of duty; and then to receive substantially the same measure of protection accorded to other industries. The method by which this problem is solved is by the imposition upon woolen cloths and other manufactures of wool of such specific duties as will be sufficient to reimburse the manufacturer for the amount of duty and other material entering into such manufactures, and the amount paid on account of such duty. The protection to the manufacturer is provided by an ad valorem duty; being, with slight exceptions, fixed in the old and existing tariff as 35 per cent—these two classes of duty, the specific and ad valorem, constituting that system of compound duties which is held to be the only one that can be effectually defensive of the woolen manufacture, or is consistent with protection to wool.

AMOUNT OF WOOL IN FINISHED PRODUCT.

This being the theory upon which the specific and ad valorem duty on woolen goods is imposed, the next problem to solve was as to the amount of raw material that would be required to make a pound of finished goods, the amount of duty paid on the material, and the amount paid on account of the duty. The estimates of the manufacturers, which seem to have been accepted by the law-making power of the Government, were that an average of 4 pounds of raw wool is required to produce 1 pound of finished woolen goods. This estimate was claimed by manufacturers to be too low to cover a large class of goods. Hence, on some classes of goods provided for in the existing law, the relation of raw wool to the finished product is placed at 4½ pounds of raw wool to 1 pound of the finished product. The manufacturers also claimed that, by reason of the duties on drugs, dyestuffs, and other imported materials, and other charges and expenses in consequence of these duties, which amounted to 10 per cent, this amount should be added to the specific duty to fully reimburse the manufacturer.

WOOL GROWERS AND WOOL MANUFACTURERS AGREE.

These claims of the manufacturers seem to have been acceded to in framing the existing law. Your committee, however, desire to call attention to the fact that in 1866 this same National Association of Wool Manufacturers, through their executive committee, addressed a communication to the United States Revenue Commission, in which they set forth their claims to increased protection. In this communication they were joined by the National Wool Growers' Association, the two associations having united in their respective demands. The conclusions which these two associations then reached were stated as follows: *b*

In view of the facts above stated, and of the requirements of our manufacturers for an increased supply of American wool, and in order to furnish a stimulus for such supply, and at the same time to "secure equal encouragement and protection to

a See Senate Ex. Doc. No. 72, Forty-ninth Congress, first session, p. 307.

b See Reports of Commission appointed for a Revision of the Revenue System of the United States, 1865–'66, pp. 429–430.

both interests," we recommend as a basis for the readjustment of the revenue laws applicable to wool and woolens the following propositions:

(1) A provision to be inserted in the tariff laws requiring all wools now known as Meztizo, Metz, Cape, and Australian wools, to be subjected to a duty of not less than 10 cents per pound and 10 per cent ad valorem; said provision to be so worded as most effectually to prevent these and similar wools from being admitted at a less rate of duty; the rates of duty on all other wools to remain as they now are, with the exception of wools the growth of Canada, which, in the absence of treaty stipulations, shall be subjected to a duty of —— cents per pound.

(2) All manufactures composed wholly or in part of wool or worsted shall be subjected to a duty which shall be equal to 25 per cent net; that is to say, 25 per cent after reimbursing the amount paid on account of duties on wool, dyestuffs, and other imported materials used in such manufactures, and also the amount paid for the internal-revenue tax imposed on manufactures and upon the supplies and material used therefor.

This report is signed by the executive committees of the associations and was regarded at the time as expressing the sentiments of all persons engaged in both industries. In a subsequent communication of the executive committee of the National Association of Wool Manufacturers relative to the proposed duties on wool and woolens, addressed to the United States Revenue Commission, May, 1866, the following statement occurs in explanation of the foregoing provisions: *a*

The object sought in these bills was to give a sufficient protection to the wool grower, and place the manufacturer in the same position as if he had his wool free of duty. A duty, supposed to be sufficient to protect the wool grower against wool competing with his own, was placed upon such wools; and such a specific duty was placed upon woolen cloths as was supposed to be sufficient to reimburse the manufacturer for the amount of the duty paid on the wools. The ad valorem duty on the cloths was added, to reimburse to the manufacturer the expenses of carrying the duty on the wools, the internal taxes, the duties on drugs and other materials used in manufacture, and to furnish the required protection.

CONGRESS ACCEDES TO THEIR DEMAND.

It will be seen that these reports were submitted to the United States Revenue Commission prior to the passage of the act of March 2, 1867; and by reference to the provisions in that act it will be seen that the recommendations of these two executive committees were adopted by Congress, with the exception that women's and children's dress goods, etc., valued at above 20 cents per square yard were taxed, in addition to the duty of 80 cents per square yard, an ad valorem duty of 40 per cent; and ready-made clothing was also taxed 40 per cent; and webbings, beltings, etc., were taxed 50 per cent ad valorem in addition to the pound duties.

Some qualities of carpets were also taxed 40 and 45 per cent ad valorem in addition to the pound duties; so that Congress at that time actually gave the wool manufacturers a larger protection than they had demanded. The internal-revenue tax at that time, March 2, 1867, on woolen manufactures amounted to 10 per cent ad valorem. This tax was subsequently removed; but no corresponding reduction was made in the import duties on woolen manufactures. Twenty-five per cent net was all the protection that wool manufacturers then asked in order to enable them to compete successfully with their foreign rivals; but it seems in the case of woolen goods, as in all others, the amount of protection required increases from year to year. As the industries get older and better established, more protection is demanded. The act of March 2, 1867, related entirely to the classification of wools, the tax upon raw wool and woolen manufactures; no other articles were covered by that act.

a Same, p. 444.

THE DUTIES WERE MORE THAN COMPENSATORY.

The specific duties imposed upon woolen goods in Schedule K of the act of October 1, 1890, were claimed to be merely compensatory; that is to say, to compensate the manufacturer for the amount of tariff he might be required to pay upon imported wools, and the increased price of domestic wools by reason of the tariff. The ad valorem rates were intended to cover the difference in wages and other costs of production in this country and foreign countries. If a careful examination is made of the effect of the specific duties, it will appear that they are more than compensatory; in fact, that they are highly protective, and in many cases prohibitory.

The law estimates that it requires 4 pounds, on the average, of wool in the grease to make 1 pound of finished cloth; and, hence, the pound rate upon a pound of cloth is equal to four times the tariff on a pound of wool in the grease. The pound rate would, therefore, amount to 44 cents per pound of cloth, if the wool were taxed at 11 cents per pound. This rate assumes that all of the component parts of woolen goods are wool; but by reference to the statistics of woolen goods* printed on pp. 966 to 973, inclusive, of volume 2 of the Tenth Census, it will be seen that there were 197,000,000 pounds of foreign and domestic wool in the condition purchased, which is in the grease, and 109,000,000 pounds of scoured wool. It would require 4 pounds of the former to make a pound of cloth, and the scoured wool would lose 1 pound in 4, in being converted into the cloth. This shows that there were 131,000,000 pounds of wool in the cloth actually made. There were nearly 4,000,000 pounds of yarn used, which should be added to this without any reduction (although there is a loss of about 10 per cent), which would make 135,000,000 pounds of wool in the cloth actually made.

It also appears from the table to which reference is made that the adulterants used, such as camel's hair, mohair, buffalo hair, hair of other animals, cotton, and shoddy, amounted to 98,000,000 pounds. These adulterants would lose, perhaps, 25 per cent in being converted into cloth, which shows that there were 73,000,000 pounds of adulterants in the cloth produced. The adulterants and wool combined show a product of 208,000,000 pounds of cloth, in which there were only 135,000,000 pounds of pure wool. If the tariff on the wool in the grease was estimated at 11 cents per pound, the protection per pound and square yard on this product would amount to $91,520,000. The goods produced were valued at $160,000,000; and, if the ad valorem rate was estimated at 45 per cent on the average, the ad valorem protection would amount to $72,000,000. This shows that the specific protection was $19,520,000, more on the whole product than the protection ad valorem. The combined protection amounted to $163,520,000. The specific rates imposed by law on woolen goods are based upon the assumption that all of the ingredients are wool; but the fact is that in 208,000,000 pounds of cloth there are only 135,000,000 pounds of wool.

There were over 31,000,000 pounds of cotton used, the protection on which was nearly 500 per cent on the value of the cotton itself. If the specific duties had been based upon the wool actually used in the cloth, the protection on that account would only have amounted to $59,000,000 instead of $91,000,000. It may be claimed that some protection was due to the high price of shoddy, wastes, hair, and other adulterants; but

*This does not include mixed textiles, felts, or carpets.

such compensation should not be based upon the protection of four times the tariff on a pound of wool in the grease. In any event, however, the specific duties now provided by law amount to more than compensation for the tariff on wool. They are highly protective, and even prohibitory, especially on the cheaper grades of woolen goods.

RATES IN PENDING BILL.

The rates provided for in the bill the passage of which your committee recommends, are fixed with due regard to the labor, cost of production, and to the necessities of consumers. The lowest rates are placed upon goods upon which the least labor has been bestowed and which are consumed by the greatest number of people.

HISTORY OF HIGH TARIFFS ON WOOL AND WOOLEN GOODS.

The history of the legislation imposing duties on wool and woolen goods is of special interest; and the disastrous results to wool-growers, to wool manufacturers, and to consumers which have followed such legislation demand the serious consideration of Congress at this time, in order that the proper remedy may be applied. The act of March 2, 1867, was passed at the instance of a national association of wool-growers and a like association of wool manufacturers. It was the first departure in this country from the principle of imposing reasonable revenue duties upon wool and woolen goods, to the policy of high protective tariffs on wool and compensatory and ad valorem duties on woolen goods.

EFFECT OF THE ACT OF MARCH 2, 1867.

In 1866, when the bill was pending in Congress which afterward became the act of March 2, 1867, it was predicted by those who opposed such legislation that the effect would be to lower the prices of wool and that the result would be disastrous to both wool-growers and to manufacturers of woolen goods. Your committee call attention to the report of David A. Wells, then Special Commissioner of the Revenue, to the Secretary of the Treasury in 1869, two years after the passage of the act of 1867, which sets forth the disastrous results which followed this legislation. An extract therefrom is printed in the appendix to your committee's report. (See Appendix A.)

EFFECT ON SHEEP HUSBANDRY.

Attention is also called to a statement showing the number of sheep in States east of the Missouri and Mississippi rivers at different periods from 1868 to this time, printed in Appendix B attached to this report; also to a statement showing the number of sheep in the States and Territories west of the Missouri and Mississippi rivers from 1860 to 1891, inclusive, published in Appendix C to this report. It will be seen, by reference to those statements, that in February, 1868, there were 37,000,000 sheep in the States east of those rivers, and that these were the States, with the exception of California, in which nearly all the sheep of the country were to be found at that time. The act imposing high duties upon wool was passed March 2, 1867; and the enumeration of sheep in February, 1868, may be regarded as the number on hand at the time of the passage of that bill, or within less than a year thereafter.

The States whose representatives were instrumental in securing the

legislation of 1867 have not been benefited by that legislation if the encouragement of sheep raising was the object had in view. Take for instance the State of Ohio. In 1868 there were 6,730,000 sheep in that State; in 1870 the number had fallen to 4,928,000; in 1880 to 4,080,000; in 1883 to 5,050,000; in 1890 there were only 3,943,000 reported; while in 1891 the number was given at 4,061,000. This shows a falling off of more than one-third of the number of sheep in Ohio during the twenty-four years of high protective tariff on wool. During that time the population of Ohio has increased from 2,665,260 in 1870 to 3,672,316 in 1890.

A similar result was produced in the State of Illinois; which had in 1868, 2,736,000 sheep, while in 1891 there were only 771,000 in the State. Similar results took place in all of the other States east of the Missouri and Mississippi rivers. There were 37,685,000 sheep in those States in 1868; and only 18,476,000 in 1891; a falling off of more than one-half during the twenty-four years in which high tariffs on wool have been in force. The population in the meantime in those States has probably doubled. If the number of sheep had kept pace with the increase of population there would have been in those States at this time at least 75,000,000 sheep. It will be seen by reference to Appendix C that the increase in the number of sheep in the United States has been in States west of those rivers or in localities where there was a free range upon the public domain. There were in the whole United States in 1868 nearly 39,000,000 sheep, as appears by a note to Appendix B; at this time there are only 43,000,000, an increase of 4,439,000 in twenty-four years, the whole increase being in sheep upon the ranches of the West. The States which secured the legislation, and which it was supposed would be benefited, have lost more than half the number of sheep which they had at the time the act of 1867 was passed.

In 1867, the year in which the wool-tariff act was passed, there were only 38,000,000 pounds of wool imported into the United States; which was 19 per cent only of the wool consumed in this country. In 1891 there were 129,000,000 pounds of wool imported; which was 30.8 per cent of the total consumption of the country. Thus it appears that there is at this time 62 per cent more of foreign wool consumed in this country, as compared with the whole amount consumed, than there was in 1867. The wool growers of 1867 believed that the imposition of high tariffs on wool would secure them the control of the home market. The result proves how greatly they were mistaken and how ineffectual the law has been to produce the condition which they desired.

PRICES OF WOOL.

Attention is called to the appendix relating to the prices of Ohio wool, washed, attached to this report. (See Appendix E.)

At the time of the passage of the act of March 2, 1867, wool was worth 62 cents per pound in currency. It has steadily declined from that time to this.

The passage of the act of March 3, 1883, which act reduced slightly the tariff on wool, was followed by a fall in its price; but the lower price reached in 1887 had been reached in 1879, when the tariff was still in force at the high rates fixed in 1867. The depression in prices after the act of 1883 was caused by increased production and by increased imports of wool, which followed the passage of the act of March 3, 1883. There was an increased production for the year 1884 of 10,000,000 pounds, and an increased importation of 8,000,000 pounds, and a total

increase of consumption of foreign and domestic wools combined of 20,000,000 pounds. This increased consumption of wool was by woolen manufacturers; and signifies an increased production of woolen goods.

In 1885 there was a further increase of production of wool of 8,000,000 pounds. This increased production, following a reduction of the tariff on wool, had the effect to depress prices; but this depression is further explained by a general decline in the price of wool throughout the world. The act of October 1, 1890, increased the duty on wool on an average of 1 cent a pound, with a view to increasing the prices of wool in this country. The result has been, instead of an increase in price, a fall of from 2 to 3 cents a pound, as compared with the prices which prevailed prior to its passage.

The price of wool at this time is one-half what it was at the time of the passage of the act of March 2, 1867. In view of these facts, it can not be said that the high tariffs on wool have benefited the wool-growers; on the contrary, after twenty-five years of experiment, the result has been a reduction of one-half in the number of sheep in the States east of the Mississippi and Missouri rivers, and a reduction of one-half in the price of wool.

EFFECT ON MANUFACTURERS.

Nor have the manufacturers of woolen goods been benefited by the imposition of high duties on wool and woolen goods. There have been many seasons of great depression in their business, and many petitions have been sent to Congress asking for free wool. The manufacturers of woolen goods are divided in opinion as to whether wool should be placed upon the free list; but all concede the great disadvantage to which American wool manufacturers are subjected by reason of the tariff on wool.

MR. MANNING'S CIRCULAR.

In 1885, Secretary Manning sent out circular letters to manufacturers and merchants, requesting their coöperation in the improvement of the fiscal policy of the United States. The replies received were transmitted to Congress and printed in Senate Ex. Doc. No. 72, first session, Forty-ninth Congress. On pages 299 to 322 of that report will be found an important communication from the National Association of Wool Manufacturers. This communication sets forth very clearly and forcibly the disadvantages to which American wool manufacturers are subjected by reason of the tariff on wool.

A circular letter, signed by Mr. William Whitman, president, and John L. Hayes, secretary, in behalf of the National Association of Wool Manufacturers, transmitted the communication of the association to the members thereof throughout the United States and obtained their indorsement. Nearly all of the manufacturers of woolen goods in the United States at that time approved the communication addressed to Secretary Manning. In Mr. Whitman's circular letter, dated Boston, Mass., October 28, 1885, occurs the following statement: *a*

THE WOOL TARIFF A POLITICAL NECESSITY.

We are aware that there is a difference of opinion among wool manufacturers as to [the] desirableness of a duty upon wool. Waiving that question, as we have in the response to Secretary Manning, and assuming that the continuance of a wool

a Same, p. 330.

duty for the present is a *political necessity*, we presume that every intelligent wool manufacturer in the country will admit that the principle of the existing woolen tariff—a compensatory duty for the raw material and a further protective duty—is the best system that can be devised.

This system is now in deadly peril. Nothing can save it but the individual efforts of the manufacturers whose interests are imperiled.

We ought to be able to present to Congress at least a thousand individual protests against a change of the existing system.

The request contained in this communication was to secure protests from the woolen manufacturers in the United States against any change in the then existing duties on wool and woolen goods; that is, against any change of the provisions on this subject in the act of March 3, 1883.

While the communication addressed to the Secretary of the Treasury made no protest against the then existing tariff on wool and woolen goods, yet it will be seen from the circular letter above that the National Association of Wool Manufacturers assumed "that the continuance of the wool duty for the present is a political necessity." And treating the tariff on wool as a political necessity, not as a measure for revenue, the communication proceeded to set forth the disadvantages to which American wool manufacturers are subjected by reason of the tariff on wool. Special attention is directed to the following extracts from that communication: *a*

Foreign manufacturers' advantages from free wool.—It is necessary for us to enlarge somewhat upon a peculiarity of our manufacture before alluded to—namely: its subjection, upon grounds of public policy, to a high duty on the raw material. The American manufacturer is engaged in a perpetual struggle with the manufacturers of Europe for the possession of the markets of this country. As before said, the advantages of our competitors are our obstacles. In this strife, the European manufacturer possesses the advantage, which would be overwhelming if not counteracted by special legislation, of having the raw material of his manufacture free from duty—no duties on wool existing in Great Britain, France, Belgium, the Netherlands; and very slight duties, if any, in other manufacturing nations. Our European competitors are exempt from the direct enhancement by a duty of the cost of wool, thus requiring less capital to supply their mills and no cost of interest on the duty required in carrying their stocks of wool and goods. They are free from the apprehension of changes in the value of wool, such as have taken place in this country in consequence of no less than seventeen changes in the tariff on wools within the memory of living manufacturers. They are exempt from the duties on wool substitutes, so usefully employed to mix with wool in the manufacture of the cheaper and heavier cloths—duties which with us are absolutely prohibitory. They are able, from the lower cost of their raw material, to relieve themselves from overproduction by consigning their surplus stocks at comparatively slight sacrifice to foreign markets, to which their cheapness has already introduced them. They are not compelled, as we are, to discriminate in their choice of wool to avoid the effect of the duty; and are able to select their wools in any condition, whether unwashed, washed, or scoured, with reference only to their desirable qualities. Through freedom of importation, they have near markets; as at London, Havre, Antwerp, and Berlin, offering vast assortments and a steady supply of all kinds of wool—advantages especially favorable to the small manufacturer. This exemption from all restrictions in the selection of raw material, together with the facilities for supply and the certainty that values will not be disturbed by legislation, is believed to be the chief cause of a characteristic of the European woolen industry, namely, that the manufacturer abroad obtains success by adhering with steady attention to the special fabrics he has undertaken to make, and in which he has acquired excellence; while diversification of manufactures, so necessary to prevent overproduction, is encouraged by the equal availability of all varieties and conditions of raw material. The effect of this policy upon the agricultural interests and the labor of the countries which adopt it we are not at present called upon to consider.

Domestic manufacturers' disadvantages.—On the other hand, the protection to wool adopted in this country upon grounds of public policy involves disadvantages to the domestic manufacture which would be insuperable if not neutralized by the compensation to be hereafter referred to. In making a comparison with European manufacturers it is not sufficient to consider the *rates* of duty only, but the expenses attending the importation of wool from the great wool markets of the world, from

a Same, pp. 304–306.

which the foreign manufacturer is exempt, and which constitute an additional protection to the woolgrower. In order that the existing duties of wool may be thoroughly understood, we append a table prepared in 1884 by wool experts in whom we have entire confidence, exhibiting the prices at which wools of all classes could then be bought in some of the world's markets—and the conditions are not now materially changed—the existing duty upon them, the cost of importation (including commissions) from the port of shipment to Boston, the total cost at Boston, the percentage of duty upon their cost, and the percentage of duty and cost of importation upon their cost. Selecting class 1, clothing wools, as an illustration, an examination of this table will show that on class 1, unwashed wool, the duty ranges from 34.48 per cent to 100 per cent on the cost, and that the duty and cost of importation range from 48.45 per cent to 117.80 per cent on the cost.

PAYING DUTY ON GREASE AND DIRT.

This high duty is not the only difficulty with which our manufacturers requiring foreign wools have to contend. It is held that complete protection to the most important branch of our wool-growing industry, the merino sheep husbandry, requires that washed wools in class 1 should be subject to double the duty of unwashed wool, and the duty on scoured wool should be three times the amount upon the unwashed wools—an arrangement which compels the importations of class 1 wools to be in the greasy state, necessitating the transportation charges on from two and a quarter to three pounds of grease and dirt in the wool required for a pound of cloth. The effect of the compulsion to buy greasy wool, and pay a heavy specific duty on its impurities, is that the American manufacturer is thereby obliged to give undue preference to light condition over fineness and the other valuable qualities of wools offering in foreign markets. Our manufacturers, moreover, are obliged by this restriction to concentrate their competition in foreign markets upon the always small proportion of the lightest unwashed wools; while our foreign competitors, having to pay duty neither upon wool nor upon grease and dirt, can buy the heavy wools in the market to much better advantage.

DIFFICULTIES INCREASING.

To these considerations it should be added that the high specific duty on clothing wools, a duty irrespective of the cost, practically excludes the cheap and abundant clothing wools of South America; and, by freeing them from our competition for their purchase makes them much cheaper than they would otherwise be to the manufacturers of France, Belgium, and Germany, who work them up into cloths and stuffs by the cheapest labor in Europe.

Another matter, though comparatively of less importance, should not be omitted. The classification of wools under each class, indispensible as it is for the objects aimed at in the wool tariff, is subject to the difficulty of excluding the doubtful classes of wool, or those on the uncertain line of division between two classes, however desirable and valuable they may be, the importer being unwilling to incur the risk of such wools being subjected to the duty of the higher class. This is another considerable restriction in our selection of imported wools; and has been a source of serious loss and inconvenience to our importing manufacturers.

Necessity for counteracting disadvantages.—It will be seen from the above that we are subjected, in consequence of wool duties deemed necessary for the protection of the domestic wool industry, not only to an enhancement of the cost of our raw material, but to stringent limitations in choosing the best sources of supply for our various wants—disadvantages from which our foreign competitors are wholly exempt, and to which no other branch of domestic industry is subjected to any material extent. We dwell upon these restrictions and limitations, not with the object of urging their removal, for we have already expressed our assent to the system by which they are retained, but because a frank statement of these difficulties is required to show the indispensable necessity of neutralizing them, if the woolen industry is to be preserved in this country together with the protection to wool, which public policy seems to require and the supremacy of agricultural constituencies makes imperative. These conditions require to be fully stated, because they are not generally appreciated. It needs to be better known that the admittedly high duties, and, on a cursory view, unduly high duties, on woolens are made necessary by the assumed necessity of protecting the domestic wool-growers and providing for them a profitable home market; and that the manufacturers, exempted from the wool duties, would be amply content with the much lower range of duties provided for other branches of the textile industry.

Necessity for importations of wool.—It may be said that a remedy for these difficulties is to be found in the exclusive use of the domestic wools, which will be abun-

dantly supplied under due protection. To this we reply that neither our own country nor any other in the world does or can produce, to advantage, wools of all kinds and grades. Experience under high protection of wool in this country for over thirty years has demonstrated that our domestic woolgrowers find it to their advantage to produce only the staple wools required for the ordinary range of woolen fabrics; and, as these fabrics will always be in demand, they build up their flocks, a work of time, for the production only of the fleeces which will be profitable for a long series of years. This system, although providing admirable raw material for common goods, is incompatible with the variety required for the diversified and highly advanced manufacture which should be our aim. The American manufacturer, to compete with the fabrics of other nations in the endless variety demanded by our times, must have the power of selecting a portion of his raw material from all the world's sources of supply. The sudden and exceptional demand for more or new raw material must be supplied by importations.

HIGH TAXES SHOULD BE REPEALED.

In view of the many disadvantages and embarrassments, as above set forth, to which our domestic manufacturers of woolen goods are subjected by reason of the high duties on wool, and in view also of the fact that the imposition of such duties has neither benefited the woolgrowers, the wool manufacturers, nor the consumers of the country, Congress should not hesitate to repeal the unnecessary exactions.

WOOL MANUFACTURES IN 1880 AND 1890.

Attention is called to a preliminary statement of woolen industries for the censuses of 1880 and 1890, furnished your committee by the Superintendent of Census, February 26, 1892, and printed in Appendix N attached to this report. The letters of the special agents in charge of manufactures precede this statement and should be carefully read in order that a proper understanding of these statistics may be had. It must be remembered that this statement embraces all classes of woolen, worsted, and felt goods, wool hats, carpets other than rag, and hosiery and knit goods from both census years. Also, in the returns for 1890, as explained by Special Agent North, is included the shoddy industry among wool manufactures. It will also be seen by a note at the bottom of the preliminary statement, that capital to the value of $6,134,000 controlled by 271 establishments that were idle during the census year, and these idle establishments have been enumerated under the heads of capital invested and number of woolen establishments for 1890; also, 94 establishments in 1890 engaged exclusively in the manufacture of shoddy as well as the capital and output. If we deduct the idle establishments (271) and the shoddy establishments (94) which are included for the first time in woolen manufactures, it will be seen that instead of 2,867 establishments in 1890, there were only 2,502 woolen establishments in active operation. This shows a falling off in the number of establishments between 1880 and 1890 of 187. The capital invested in 1890 also includes hired property to the value of $17,742,000. A careful examination of this preliminary statement will show that woolen establishments have increased in Pennsylvania, New York, New Jersey, and in the New England States, but that, as a rule, there has been a falling off in woolen establishments between 1880 and 1890 in the Southern States and States west of the Alleghany Mountains.

From the output of the product of woolen goods for 1890, should be deducted the shoddy produced, valued at $9,000,000, in order to compare the product of 1890 with that of 1880. This being done, it will be seen that the increase amounted to only 26.08 per cent, which is but little more than the increase of population. It must also be born in

mind that the census of 1890 has been taken much more thoroughly than that of 1880; and some of this increased product is due to improved methods of taking the census. A fair estimate of the increase in the manufacture of woolen goods will show that the increase just about keeps pace with the increase of population. With an actual decrease to the amount of 174 in woolen establishments, and an output which merely keeps pace with the growth of population in the United States, it can not be claimed that the manufacture of woolen goods has been in a flourishing condition during the last decade. With a high protective tariff on the raw material and compensatory and high ad valorem duties on the finished product, and products limited to the home market, woolen manufacturers can not even hope to increase their productions beyond the annual increase of population.

CONSUMERS NOT BENEFITED.

Woolen goods, or goods composed in whole or in part of wool, including carpets, are articles of universal consumption in this country. Their cost to consumers is very great. It is impossible to estimate accurately how much the people of the country expend on this account. Such goods are absolutely necessary to the health and comfort of the people; and they are entitled to supply their wants in this respect at the lowest possible cost. If the existing law, imposing an average tax of 91 per cent on such goods when imported, does not increase the price of domestic goods of like character, which do not pay any tax whatever, then the manufacturer receives no benefit from protective tariffs and should not object to their repeal. If domestic goods are increased in price by reason of duties imposed upon foreign goods of like character, the extent or amount of this increase is the measure or protection which domestic manufacturers receive. Just how much this protection increases the cost of domestic goods to American consumers can not be ascertained with accuracy.

During the fiscal year ending June 30, 1890, the importations of woolen goods were valued at $54,000,000, and the duties collected thereon amounted to $37,000,000. These imported articles were sold in competition with domestic goods of like quality; and such domestic goods were increased in price on this account—in some cases to the full amount of the tariff paid on the foreign article. In other cases, the foreign articles being practically excluded, domestic competition fixed the price of the domestic product. According to the census of 1890 the total value of all wool manufactures in the United States for the census year was $344,000,000. These are the values at the mill exclusive of commissions and expenses of sales. The increased cost upon this amount caused by converting the materials into garments or articles ready for use would be very great. The consumers are compelled to pay whatever taxes are imposed upon woolen goods when imported, as well as whatever increased cost may be added to domestic goods by reason of the tariff. As all persons are compelled to use woolen goods all are compelled to pay the increased cost by reason of the tariff, whatever it may be. This exaction is taken from the many for the benefit of the few.

Notwithstanding the high protection accorded manufacturers of woolen goods, the quality of such goods has deteriorated from year to year since the discovery of machinery for converting woolen rags into substitutes for wool. Protective tariffs have not protected consumers of

wool against the increased use of adulterants in the manufacture of such goods.

SHODDY.

The statistics in reference to the manufacture of shoddy appear for the first time in the census reports of 1860. On page xxxiv, of volume on manufactures of the census of 1860, is a brief statement, giving a definition of the term and stating the purposes for which the article was used. As stated in this paragraph—

> It consists of cast-off woolen clothes, rags, stockings, carpets, and all soft woolen and worsted articles, reduced by powerful machinery to their original flocculent state, to be respun and woven, either alone or mixed with new wool, into a variety of fabrics. Hard or superfine cloths, mechanically reduced to filament in the same way, produce what is called mungo, which makes a better class of goods. Shoddy was originally only used for padding; but for some years past has been used for the manufacture of pilot and petersham overcoats, table and piano covers, army cloths, etc.; white shoddy enters into light-colored goods, blankets, etc.; and the dark-colored into carpets and coarse cloths of all kinds, which are dyed to cover the original colors. Mungo is extensively used in the production of the cheap Yorkshire broadcloths, which, in finish and appearance, when new, are little distinguishable from the best West of England cloths. These shoddy clothes, on account of their cheapness and deceptive appearance, have been very much used in the United States, to the injury of our cloth manufactures. Being in some respects better adapted to produce a close, short nap than American wool, this material has also entered into our domestic manufactures of late years. The machines for reducing rags to shoddy are also in use here.

The paragraph also stated that shoddy has been used in the manufacture of army and navy cloths and blankets in the United States as it is in England. On page 740 of the same volume there is a statement of the condition of the shoddy manufactures of 1860. It is as follows:

Number of establishments	30
Capital invested	$123,500
Cost of raw material	$227,925
Number of hands employed:	
Male	141
Female	149
Annual cost of labor	$54,124
Annual value of products	$402,590

This was the condition of this industry in 1860. During the late war, shoddy was so extensively used in the manufacture of army clothing and blankets, which proved to be of very inferior quality, that the public became greatly prejudiced against its use.

"THE RENAISSANCE OF WOOL."

Since 1860, the use of shoddy has become more general in the United States and elsewhere; and it has become a component part of all varieties of woolen goods.

The Bulletin of the National Association of Wool Manufacturers (Vol. XXI, p. 340; December. 1891), thus refers to the subject in an editorial article entitled "The renaissance of wool:"

> Shoddy, mungo, and wool extract are three varieties of the same general thing. Their preparation was first discovered in England, where they are more extensively

utilized than anywhere else. They are, in a word, remanufactured fibers. The Germans call them *kunstwolle* (art wool), and the French *renaissance;* and they are literally wool born again. The fiber of wool has a wonderful capacity of endurance. Once used, it may be and is used again and again, reproduced, not with all its original virtues, but still with many serviceable qualities.

In the same article from which this extract is taken, is given with approval, the opinion of a distinguished English expert in such matters, Mr. McLaren, who states that "the man who first brought shoddy into use has conferred an incalculable benefit on the world, and enabled millions of persons to be warmly and cheaply clothed who must otherwise have been shivering with cold."

The Bulletin (p. 341) gives its approval of Mr. McLaren's views and explains the process of manufacture of these substitutes for wool:

Mr. McLaren's views are practically the same as those of all writers on the manufacture of wool.

Of the three varieties of renovated wool, shoddy is undoubtedly the best. It is made chiefly from combed wool, and is the worked-up waste of goods that have not been milled or felted, such as stockings, flannels, blankets, soft merinos, etc. It is also made from hard spinning waste, now generally subjected to treatment, as well as all the looser waste generated in the manufacture of wool, on a machine named the Garnett, after its inventor, an engine of very recent date, the invention of which has been a godsend to manufacturer and consumer. In principle, it resembles a carding machine; and it effects a gradual untwisting of the fibers, which preserves as nearly as may be their original length. Mungo is made from hard spun and felted cloth, and generally from any and all cloths for men's wear, into the fabrication of which no cotton has entered. It is necessarily of very short fiber, by reason of the tension required to pull it apart. It is a saying in the English districts where it is most largely used, that anything can be spun if it is only long enough to have two ends; and it is certainly astonishing what warm and substantial clothing can be made by its judicious use in connection with new fibers of wool.

Wool extract is made from fabrics or wastes which have either cotton or linen in them. It is manufactured by carbonization. The tissue is steeped in a solution of sulphuric acid, or some other destroying agent of vegetable matter, and then heated in an inclosed chamber. This drying process leaves the sulphuric acid in a very concentrated form upon the tissue; the effect of which is to reduce the vegetable fiber to cinders or dust, so that it disappears when the material is subjected to a thorough washing.

These various substitutes are ground upon machines not greatly different in construction for the several varieties. Old rags are fed upon a picker, with steel teeth, sometimes called the "devil," from the way in which it tears up and maltreats everything it gets hold of.

THE GROWTH OF SHODDY INDUSTRY.

The statistics of the growth of this new industry will prove of interest.

By reference to the volume on industry and wealth, census of 1870, the statistics for the manufacture of shoddy for that year were given, as follows:

Number of establishments	56
Hands employed	632
Capital	$815,950
Wages	198,372
Materials	1,098,603
Products	1,768,592

These figures show that the industry was fairly prosperous during the decade between 1860 and 1870. The capital employed was increased 561 per cent; and there was an increase in the value of the product to the amount of 339 per cent. The statistics of shoddy manufacture

are given more in detail on page 72 of volume II, on Manufactures, of the census of 1880, where the following table will be found:

1880.

160.—*Shoddy.*

States.	Number of establishments.	Capital.	Average number of hands employed.			Total amount of wages paid during the year.	Value of materials.	Value of product.
			Males above 16 years.	Females above 15 years.	Children and youths.			
The United States	73	$1,165,100	695	496	91	$400,326	$3,366,650	$4,989,615
Connecticut	8	86,000	93	38	8	35,345	261,200	347,500
Illinois	2	22,000	16	12	3	12,300	74,500	100,000
Maine	1	6,000	4	1	3	1,905	7,200	12,000
Maryland	1	5,000	5	4	6	3,100	14,150	22,500
Massachusetts	30	460,500	334	105	32	173,439	1,308,715	2,305,985
New Hampshire	3	17,300	13	8	2	5,700	38,900	49,600
New Jersey	1	35,000	10	5	15	25,000	80,734	137,500
New York	7	32,700	43	32	3	33,610	321,220	407,590
Ohio	1	250,000	30	216	.....	40,000	575,000	700,000
Pennsylvania	11	186,000	90	40	13	47,441	510,977	655,895
Rhode Island	6	49,600	51	26	6	18,590	137,054	195,045
Vermont	2	15,000	6	9	.....	3,896	37,000	56,000

It will be seen from the table of materials consumed (in Appendix O) that the wool consumed in wool manufactures in 1890 was 372,873,713 pounds. This was wool in the grease, and should be reduced, according to the legal rate of loss, 66⅔ per cent. It will thus be seen that in 1890, in the manufacture of woolen goods of every kind in this country, there were used 124,291,238 pounds of pure wool and 154,130,890 pounds of shoddy, cotton, and other adulterants (not including camel's hair and mohair), the adulterants, exceeding the amount of pure wool, the ratio being 45 parts of pure wool to 55 parts of adulterants.

It can not be said that these adulterants were principally used in the manufacture of carpets and felt goods, for the table above given shows that of the 61,626,261 pounds of shoddy consumed 51,862,397 pounds were used in the manufacture of woolen goods.

The statistics of shoddy manufacture for 1890 have not yet been published, but your committee has been furnished the following statement:

Shoddy, 1890.

States.	No. of establishments.	Sets of cards.	Value of product.
United States	94	449	*$9,208,011
Connecticut	7	47	648,060
Illinois	3	12	182,110
Maine	2	11	63,670
Massachusetts	23	174	2,287,455
Michigan	1	11	Idle.
New Hampshire	2	10	47,807
New Jersey	4	19	450,709
New York	6	13	618,783
Ohio	3	43	1,377,500
Pennsylvania	33	73	2,343,701
Rhode Island	10	36	1,188,216

* The 94 establishments given above, manufacture shoddy, waste, etc., exclusively; but the gross product includes shoddy, waste, etc., made at all other mills as well, which was not the fact in the returns for 1880.

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From this statement it will appear that the number of establishments has increased from 73 in 1880 to 94 in 1890; and the value of the product has increased from $4,900,000 to $9,200,000, the increase being nearly 88 per cent. It appears from Mr. North's table that the shoddy used in manufactures of woolen goods of all descriptions in the census year of 1890 amounted to 61,626,261 pounds.

According to the statement furnished your committee by the Bureau of Statistics of the Treasury Department, printed in the appendix to this report (Appendix D), there were produced in the United States in the year 1890 276,000,000 pounds of wool.

These figures represent the wool in the grease, and in reducing it to scoured wool there will be a loss of 66⅔ per cent, which shows that the scoured wool produced in that year amounted to only 92,000,000 pounds. Thus it appears that the shoddy consumed in the United States in the census year of 1890 had a cloth-producing power equal to 67 per cent of all the wool which was produced in the United States for that year; in other words, that the scoured wool produced amounted to 92,000,000 pounds, while the shoddy consumed amounted to 61,626,261 pounds.

The whole number of sheep in the United States for the census year 1890 was 44,336,072; the fleeces amounted to 276,000,000 pounds. These fleeces produced 92,000,000 pounds of scoured wool, while the 94 establishments engaged in manufacturing shoddy produced a wool product equal to that of 29,605,168 sheep.

PRICES OF WOOL IN THE UNITED STATES AND ENGLAND.

Your committee requested the Bureau of Statistics to furnish it with a statement showing the prices of wool of the same quality in the United States and Europe, from 1866 to this time. The Bureau of Statistics referred the matter to Mr. S. N. D. North, the secretary of the National Association of Wool Manufacturers, at Boston, Mass., and the special agent of the Census Office in charge of statistics of woolen manufactures. Mr. North procured the statement desired from a firm of wool merchants in Boston, which is everywhere recognized as authority in matters of this kind. The letters of Mr. North and the statement referred to are published in the appendix to this report. (See Appendix J.)

Mr. North, in transmitting this statement, explains that, in order to institute comparisons between the prices of wool in the United States and in Great Britain, the Ohio medium washed wool has been agreed upon by those in the trade as the grade of wool corresponding to the Port Phillip fleece, an Australian wool of substantially the same quality. Mr. North also explains that the Boston prices of the Ohio wool are given in currency from 1866 to 1879, when specie payments were resumed in the United States. The English prices are all in gold. For the purposes of comparison the Boston prices should also be stated in gold. The premium on gold in 1866 was such that a currency dollar was only worth 71 cents; and steadily declined until 1879, when specie payments were resumed. To the table, as given by Mr. North, has been added a column giving the gold values of the American wool from 1866 to 1878, inclusive. It will be seen by reference to this table that the London and Boston prices of these grades of wool varied but little from year to year down to and including 1890. The statistics for 1891 have not yet been furnished.

It will appear that there were times when the London prices were greater than those in the United States; but a general average would show little difference between the Boston and London prices. As these prices are based on washed wool, the duty on foreign wools would be 22 cents a pound; and if that amount of duty furnished protection to that extent to the American wool-grower, this grade of American wool ought to be worth 22 cents a pound more in the United States than the same grade of wool in London. Instead of this, however, omitting the unusual years of 1871 and 1872, in which the prices were unnaturally affected by wild speculation, we find that the American wool for the remaining twenty-three years averaged a little less in price than the foreign wool. This fact shows that the American wool-growers do not receive any increase whatever in the prices of their wool by reason of the tariff on foreign wools. This failure of protection to protect the woolgrower may be explained by calling attention to the conditions of wool manufacture in the United States.

Wool manufacturers, as a rule, do not manufacture goods until they receive orders. This precaution is necessary in order to guard against overproduction. The orders indicate the quality of the goods desired by American consumers for the ensuing season. These qualities of goods can be produced only by the admixture of foreign wools with native wools and by combining with these whatever of cotton, shoddy, and other adulterants may be used to advantage. The manufacturer, then, first determines the amount of foreign wool required, the amount of cotton, shoddy, and other adulterants that may be used to advantage, and the amount of domestic wool which will be required to complete the component parts of his orders. The domestic wool therefor is confined to a limited market. Its only purchasers are American manufacturers. They purchase only what they can use to advantage. The remainder is left in the market or in the hands of the producers; and, if there is a large yield, prices must of necessity be depressed.

As the American producer of wool can not sell abroad at a profit, he must await the pleasure of the woolen manufacturers, who are his sole patrons, and take such prices as may be fixed in the home market, which prices will always be determined by the demand and supply. A mild winter, for instance, which would cause a falling off of consumption, would tend to depress the prices of woolen goods, and consequently the prices of wool. There are many contingencies which affect prices of all kinds, but as a rule they are governed by the inexorable law of supply and demand. If there be a large supply of American wool in the American market and a small demand, prices will be low; if there is a small supply and a large demand, prices will be high. A high protective tariff on wool has the direct effect of limiting the demand for American wools, for the reason that under such tariffs neither domestic wools nor domestic manufactures of wool can be exported and sold at a profit; and that amount only of domestic wool will be purchased and consumed which will be required to mix with the foreign wool which must be used to produce the required quality and quantity of goods to supply the home market.

COMPARATIVE COST OF PRODUCING TEXTILES IN THE UNITED STATES AND EUROPE.

Your committee have attached to their report (see Appendix L) an elaborate statement, showing the relative cost of producing textile fabrics in the United States and in Europe. This statement was fur-

nished your committee by Mr. Carroll D. Wright the Commissioner of Labor, and is the most reliable and accurate information of the kind heretofore published. Mr. Wright, in his letter to your committee accompanying this statement, explains that there are many difficulties in the way of comparing the cost of producing textiles in the United States and in Europe. One difficulty is that the same quality of cloth in all respects is not produced in any two different factories, even in the same country; and that, in comparing the cost of producing textile fabrics in the United States with those in Europe, accuracy as to relative cost of the same fabric here and abroad is impossible. There will always be found to be some difference in the cloths compared, either in the weight, width, number of threads, quality of wool, or some other particular. Keeping these facts in view, a careful study of the data furnished by the Bureau of Labor will show that your committee in fixing the ad valorem rates upon imported woolen goods and carpets, as provided in the accompanying bill, have made ample allowance for the difference in wages and other cost of production in Europe and in the United States. In fact, the protection afforded in this bill to American manufacturers will amount, in all cases, to more than the increased cost of production in this country as compared with the cost of production of like articles in Europe.

FREE SUGAR INCREASES CONSUMPTION.

The increased consumption of woolen goods which will result from placing wool on the free list and reducing the duties on such goods may be approximately ascertained by reference to the increased consumption of sugar which resulted from admitting raw sugar free of duty, and reducing the duties on the refined product. The weekly statistical report on the sugar trade, January 7, 1892, of Messrs. Willett & Gray, of the New York Trade Journal, contains the following statement on this point:

The year 1891.—Full detailed statements for 1891 are given in the "Statistical," with comparisons for ten years. In 1891, the receipts of sugar were, at New York, 824,081 tons; Boston, 193,661 tons; Philadelphia, 491,396 tons; Baltimore, 25,849 tons; a total of 1,534,987 tons at the four ports. Receipts of foreign sugar at New Orleans, 88,928 tons; San Francisco, 136,534 tons. No sugar was received into the United States through any other ports. Total receipts of foreign sugar in 1891 were 1,760,449 tons, against 1,338,047 tons in 1890. The domestic crop of Louisiana is estimated at 180,000 tons, against 220,000 tons last year; the crops of Florida and Texas, at 7,000 tons. The beet-root sugar production in the United States in 1891 was 5,400 tons and of sorghum sugar 570 tons, and of maple sugar 22,000 tons, and of molasses sugar 31,320 tons. The total production of the United States is 246,290 tons, against 280,000 tons last season. The total consumption of sugar in the United States in 1891 was 1,885,994 tons (say 1,619,704 tons foreign, 234,970 tons domestic, 31,320 tons home manufacture from foreign molasses), against 1,522,731 tons in 1890 (say 1,257,292 tons foreign, 212,000 tons domestic, 53,439 tons home manufacture from foreign molasses). The increased consumption of 1891 over 1890 was 363,263 tons, or 23.86 per cent, and the consumption for each individual (per capita) 67.46 pounds, against 54.56 pounds in 1890.

The importation of refined sugar in 1891 was 2,772 tons at New York, 1,227 tons at Philadelphia, 1,925 tons at New Orleans, and 833 tons at San Francisco. The export of raw and refined sugar in 1891 was 29,837 tons from the four ports, 4,693 tons from San Francisco, and 212 tons from New Orleans. The extra increase of 18 per cent in consumption above the usual average yearly increase of 5 per cent is due directly to the free-sugar tariff and the extreme low range of prices ruling during the entire year, with small fluctuations. We do not look for an increase in 1892 much, if any, above the nominal rate of 5 per cent, especially as the range of prices in 1892 will be on a higher level than in 1891.

The probabilities are that there will be a greater per cent of increase in the consumption of woolen goods, if the pending bill should pass, than occurred in the case of sugar.

EFFECT ON THE REVENUES.

The effect upon the revenues of the Government of placing wool on the free list and reducing the duties upon woolen goods can not be stated with accuracy. The importations of wool for the fiscal year ending June 30, 1889, were valued at $18,051,000, and the duties collected thereon for that year amounted to $5,982,000. The importations of manufactures of wool for the same year were valued at $53,842,000, and the duties collected thereon amounted to $35,373,000. The importations and duties received for the year 1889 are cited for the reason that that year's business was unaffected by the pendency or passage of the act of October 1, 1890. (See Appendix G.) The value of wools imported into the United States for the six months ending December 31, 1889, was $7,239,000; the total number of pounds imported during that period was 51,650,000. For the corresponding period, ending December 31, 1891, the quantities of wool imported amounted to 65,000,000 pounds, and the value was $8,162,000, being an increase of importations of 13,680,000 pounds and an increase in value of the imports amounting to $923,645. (See Appendix F.)

It will thus be seen that the act of October 1, 1890, instead of checking the importation of wool, has permitted an increase in importations for the first six months of the present fiscal year of over 13,000,000 pounds, as compared with the corresponding months of the year 1889. As no revenues will be derived from raw wool in case the bill reported by your committee is passed, it is safe to assume that there will be a loss to revenue on this account to the extent of nearly $6,000,000 per year. The value of manufactures of wool imported for the six months ending December 31, 1889, was $27,710,000. The value of such goods imported during the six months ending December 31, 1891, was $19,000,000, showing a decrease in the value of such importations for the first half of the present fiscal year of $8,697,000. The average rates of duties on the importations of manufactures of wool for the year ending June 30, 1889, if estimated under the provisions of the act of October 1, 1890, were 91.65 per cent. If the imports of woolen goods for the last half of the present fiscal year should equal those of the first half, the importations of manufactures of wool for the year ending June 30, 1892, would amount to $38,025,000. If the duties for this fiscal year on manufactures of wool should average the same under the present law, they would amount to $34,850,000, or a loss of only $523,000, as compared with the duties on manufactures of wool for the fiscal year ending June 30, 1889. The revenue to be derived from the tariff on raw wool for the fiscal year ending June 30, 1892, may be estimated as follows:—

The value of wool imported for the first half of this year is $8,162,000. If the duties on wool should average 40 per cent ad valorem, as is estimated, the amount of duty for six months would be $3,264,800. This would represent the duties for six months; and twice this amount, or $6,529,000, may fairly be estimated as the receipts from wool for the current year. The receipts from duties on manufactures of wool for the current year have been estimated at $34,850,000, making a total of $41,379,000. This is precisely the amount of duties which were received on wool and woolen goods for the fiscal year ending June 30, 1889. It is a remarkable coincidence that this estimate for the current

year should have produced precisely the amount which was realized for the year 1889. If the bill reported by your committee should become a law, the duties received on wool would be remitted. The duties on woolen goods would be reduced at least one-half; but it is safe to estimate that there will be some increase of importations of woolen goods. Such importations for the year 1889 were valued at $52,681,000.

The increased duties upon woolen goods by the act of October 1, 1890, caused a loss of importations of woolen goods to the amount of nearly 28 per cent for the first six months of the year, as compared with the importations of the first half of the year 1889. It is impossible to determine just what effect the reduction of duties in the bill reported by your committee would have upon the importations of woolen goods; as the present law is prohibitory upon most articles of woolen manufacture worn by the masses of the people. It is not unreasonable to assume that lower duties upon these articles, as well as a reduction of more than one-half upon all woolen goods, would cause some increase of importations; for the reduction of duties would cheapen the price to consumers, and thus largely increase consumption. Increased consumption would call for increased home manufacture, as well as, temporarily at least, enlarged importations. But it is impossible to estimate accurately the effect upon revenues of changes in tariff duties. This we can say with full confidence: that any reduction of public income by the passage of this bill will be far more than balanced by the healthy decrease in public expenditure, now imperatively demanded by every public interest. By substituting in Mr. Jefferson's well-known phrase, "economy for taxation," we shall run no risk of causing a deficit in the revenues of the Government, while lifting a grievous load of taxation from some of the plain necessaries of life.

All of which is respectfully submitted.

APPENDIX A.

[Extract from the report of David A. Wells, Special Commissioner of the Revenue, to the Secretary of the Treasury, December, 1869; pp. XCII–CV.]

WOOL AND WOOLENS.

In March, 1867, an act was passed by Congress increasing the duties on the importation of wool and woolens to a degree unprecedented and far in advance of the average rate of the then existing tariff. The object aimed at was to promote alike the interests of the grower of wool and the manufacturer of fabrics. The results attained to, however, have been so remarkable and so contrary to expectation that a detailed history of the whole movement deserves to be put on record as a most important contribution to politico-economic science and as affording a new and most striking illustration of the impolicy of the oft-renewed effort to unnaturally influence the course of industry and trade by a resort to legislation.

The breaking out of the war in 1861 and the curtailment of the usual supply of cotton created both in the United States and in Europe a greatly increased demand for wool and for woolen fabrics; and prices, as was to have been expected, advanced in proportion. Domestic fleece wools in New York rose from 35 to 48 cents per pound in April, 1861, to 90 to 117 cents in August, 1864; and manufacturers who had stock on hand, or contracted for, during the first years of the war, or who afterwards bought progressively, realized immense profits.

At the close of the war (which was followed by a marked decline in the prices of wool) a number of gentlemen claiming to represent the wool-growers of the United States, but who appear to have been more especially interested in the breeding of sheep than in the growing of wool, conceived the idea that, if all foreign wool could be shut out by legislation from competition with the domestic product, the war prices of domestic wool could be maintained, and great gain be thereby made to accrue to all concerned. Measures to accomplish this object were accordingly set on foot; and, as the scheme looked especially toward the promotion of the interest of the agriculturists of the country, it gave promise of success from its very outset. Meantime, the manufacturers of wool, clearly perceiving that a restriction of supply and increase in the price of wool would place them at a disadvantage in respect to foreign competition, became alarmed and proposed coöperation to the Wool-Growers' Association. The offer was accepted, the parties entered into union, and by means of delegates entered upon their work. What was this work? Not to increase the revenues of the national treasury; not to promote the interests of the great mass of the people to whom woolen fabrics are almost as much a necessity as food and shelter; nor to increase the wages or comforts of the laborers who grow the wool or manufacture the cloth; but simply and exclusively to influence legislation for the promotion of their respective private gains and interests.

The basis of the agreement on which the interests united was substantially as follows:—

That the duty on raw or unwashed wools and hair, other than wools adapted for carpets, should be fixed at rates varying from 10 to 12 cents per pound and from 10 to 11 per cent ad valorem. In order, then, to compensate the manufacturer for such a prospective enhancement of the price of his raw material, it was agreed that, in consideration of the fact that *four* pounds of the cheapest imported wool (mestiza), paying an aggregate duty of 46 cents, were *sometimes* employed in the fabrication of a pound of finished cloth, the duty on cloth should be 50 cents per pound and on other fabrics of wool of varying weight a duty in like proportion. In order, next, to give the manufacturer protection against his foreign competitor, 25 per cent ad valorem was added; and, in order to further compensate for the payment of an internal-revenue tax of 6 per cent, *which tax was repealed in the succeeding year, ten per cent more was added*, thus making the aggregate duties on cloths, shawls, and woolen goods generally 50 cents per pound* and 35 per cent ad valorem. It will thus be seen that, if the man-

* It is worthy of note, as constituting a valuable precedent for a certain class of American economists, that Charles V of Spain imposed in 1519 a duty similar to that of the present United States tariff, viz, 50 cents per pound on all woolen cloth imported into the kingdom; and that under the influence of this and other similar measures the wool production and woolen manufacture of Spain gradually sunk into insignificance.

ufacturers, as is often alleged, did not enter into the arrangement for an increase of duties through their own seeking, they nevertheless managed to secure full compensation for all that was granted to the wool-growers; and, in addition to that, through force of subsequent circumstances, an additional protection in excess of what, according to their own showing, they considered necessary.

Nearly two years have now elapsed since these measures were consummated, giving time for experience to test the principle. And what, to-day, is that experience?

First. Wool to the agriculturist at a lower price in gold than has almost ever before been experienced; the average price of medium American washed wools from 1827 to 1862 having been 42.8 cents per pound (gold), while the average price of Ohio wools for the year 1868, reduced to gold, was only 35.21 cents; which is less than the average price of 1858, when, under the influence of the disastrous crisis of 1857, a large portion of the mills of the country were standing absolutely idle. For the year 1869, the price paid in Ohio for medium wools, according to estimates presented to the Commissioner, has been about 43 cents currency.

Second. A decrease in the number of sheep in the United States, estimated by the Commissioner of Agriculture at *four millions* for the single year 1868, while other authorities place the total decrease as high as twenty-five per cent since the passage of the wool tariff.

In the whole history of the fluctuations of American industry, there never has been a more discouraging and disastrous record than that presented by the Department of Agriculture in its report for March and April, 1869; some seven pages of which are occupied with a detailed statement of the condition of sheep husbandry in one hundred and seventy counties of twenty-one different States, in only one of which, Missouri, is there anything which indicates a condition of even moderate prosperity for this particular branch of industry. As illustrating the nature of these statements, we give the following quotations:—

"*Vermont.*—Orange County: The best wool-growers 'hold on'; some have sold one-half, some three-fourths, and a few have sold all. Orleans County: All sheep and lambs (fine wool) that drovers would buy were sold for market last fall, and 25 per cent of the remainder were sold to be killed for their pelts and tallow.

"*Massachusetts.*—Berkshire County: Probably one-third of the flocks of last year have been sold or slaughtered; in some cases the prices were scarcely more than the value of the pelts.

"*New York.*—Chatauqua County: Ten per cent have been pelted or shipped off. Genesee County: Decrease of sheep, 30 per cent. Onondaga County: Perhaps one-fourth have been sold; no such destruction has occurred for twenty years previously.

"*Pennsylvania.*—Butler County: One-third of last year's flocks have been sold. Lawrence County: So great has been the destruction that mutton has sold for 25 cents per quarter all winter. Mercer County: Many slaughtered; some have sold 75 per cent of their flocks.

"*Kentucky.*—Greenup County: About four-tenths have been sold to be killed for tallow and pelts.

"*West Virginia.*—Harrison County: Stocks are being sold off; sheep husbandry is unpopular. Ohio County: Reduction of sheep for pelts and tallow, 40 per cent.

"*Missouri.*—Worth County: Twenty per cent sold for mutton and tallow. Pemiscot County: Forty per cent of the sheep sold out of the State for mutton.

"*Illinois.*—Menard County: Number reduced three-tenths by slaughter and shipment. Mercer County: At least 20 per cent of the sheep have left the State. Sangamon County: Many thousands sold at about the worth of pelt and tallow. Lee County: Many died from neglect and many have been slaughtered. Logan County: Many killed for their pelts; the number reduced from 70,000 three years ago to 18,000 now.

"*Indiana.*—Madison County: Fully one-fourth sent out of the State. Randolph County: Flocks reduced one-half. Elkhart County: Flocks greatly reduced by sheep being killed for pelts; carcasses fed to hogs. Bartholomew County: Probably one-fourth of the sheep killed for pelts and tallow.

"*Ohio.*—Highland County: Great many sheep slaughtered for mutton. Holmes County: Large number sold for pelts and tallow, at 25 to 75 cents per head; 15 to 20 per cent of the entire number. Morrow County: From one-fourth to one-third killed, or sold for pelts. Putnam County: One-fourth of the whole stock. Tuscarawas County: One-third of the stock. Athens County: Flocks reduced one-third in eighteen months. Fulton County: Twenty per cent killed. Jackson County: Thirty per cent sold for pelts and tallow.

"*Michigan.*—St. Clair County: Large number killed for mutton. Washtenaw County: Great number killed for pelts, tallow, and mutton; the latter being sold as low as 1 cent per pound for inferior class. Clinton County: One man sold 400 at $1 per head. Jackson County: Fifty per cent sold, mostly for pelts, tallow, and hams.

"*Wisconsin.*—Milwaukee County: Stock much reduced by slaughter. Rock County: Flocks reduced one-fourth. Buffalo County: Flocks reduced 25 per cent. Ozaukee County: Flocks reduced 30 per cent.

"*Minnesota.*—Le Sueur County: Flocks reduced two-tenths. Watonwan County: A large number killed for mutton.

"*Iowa.*—Dubuque County: Fifty per cent sold to butchers. Lucas County: Flocks reduced 6 to 7 per cent. Jasper County: Flocks reduced 10 per cent. Madison County: Flocks reduced 50 per cent. Allamakee County: Flocks reduced by sale at low prices. Des Moines County: Stock considerably reduced. Whole flocks sold."

Third. A condition of the woolen manufacture characterized by a greater depression than that of any other branch of industry in the country, with the exception of shipbuilding; small profits accruing to a few, heavy losses to the many, with numerous and constantly recurring failures. At the date of writing, November, 1869, the attention of the Commissioner is called to the sale of a woolen mill property, which will give to the stockholders $105,000 upon a capital of $700,000; thus showing a loss of 85 per cent. of the whole capital in from four to five years of operations.

Fourth. An increase in the importation of foreign fabrics of wool; the imports for the fiscal year 1868 being returned at $32,458,884, and for 1869 at $34,620,943.

Fifth. Encouragement of smuggling and its apparent reduction to a system. During the first year of the increased duties on the imports of wool and woolens into the United States (1867), the importation of woolen goods into Canada from Great Britain was returned at $8,012,439 as compared with $5,489,039 in 1865, or two years previously. The report of the Boston Board of Trade for January, 1869, says, significantly: "It is well known that Canadian tailors openly solicit orders for clothing to be delivered here at low prices, and are countenanced in it by men of high standing in this community."

It is also to be noted that "Cape wools", which the existing tariff will not permit American manufacturers to import, are now passing into Canada in considerable quantities, both by direct importation and by transmission in bond from American ports of entry; thus proving that certain branches of wool industry which have been crushed out in the United States are establishing themselves across the frontier. And it is further the opinion of those conversant with these imports, that they will nearly all, in the form of fabric, ultimately find their way into the United States without payment of any duty.

* * * * * * *

The wools of the United States are mainly the merino clothing wools, which can be produced in any quantity, and at prices which defy foreign competition. Wool has been raised in Texas during the last year (1868–'69) in large quantities, at an estimated cost of 7 cents gold per pound; and has commanded readily in the market 25 cents gold per pound. It is furthermore to be noted that German Saxon wool, which during the past year has touched the lowest price almost of the century, could not now be imported, even in the absence of all duty, and sold at so low a price as the average prices which XX Ohio wools have commanded during the past season in the New York market.

On the other hand, wools which the existing tariff excludes are mainly wools which are either not grown in the United States, or grown in very limited and insufficient quantities. The American manufacturer, therefore, being restricted in the selection of his raw material, is, of necessity, restricted in the variety of his products; and the great quantity of machinery brought into existence by the demands of the war has, in consequence, been forced, in great part, into *one* line of production; overstocking the markets with certain descriptions of fabics, unnaturally reducing prices, restricting diversity and extension of production, and bringing disaster upon the whole business of wool-manufacturing.

That this has been and will continue to be the inevitable effect of restrictions imposed by the existing tariff on importations of desirable wools is also clearly shown by the commissioners of the United States to the Paris Exposition of 1867, in their report on "Wool and Manufactures of Wool." In this report (written by a gentleman who has no superior in general intelligence and specific acquaintance with the manufacture of wool in the United States, but who at the same time ostensibly supports the existing tariff restrictions) the author on his first page and in his first lines gives the following as the result of his study and inspection of the greatest variety of wools and manufactures of wool ever brought together in one collection. He says:

"*The first impression made upon an American manufacturer by an observation of the woolen manufactures of Europe, as displayed at the Exposition, is the* IMMEASURABLE ADVANTAGE *which the woolen manufacturer of Europe has in the command of an unlimited supply of wool and other raw materials of every variety free of duty.* The policy of the

of the American people, especially the working men and the working women, toiling to elevate themselves, with the multitude of clerks, accountants, professional men, pensioners, and others who deny themselves and economize their slender incomes to make the year's receipts balance the year's expenditures, could only once fully realize the extent of the addition to their resources could they be permitted to purchase clothing as cheap in the United States as in Great Britain, they would never stop to inquire according to what particular theory of economy tariffs were enacted, but would at once so direct public opinion and suffrage as to compel the abandonment of the existing policy.

In short, what is now needed to restore prosperity to the woolen industry, is a removal of all duties on the importation of foreign wools and dyestuffs, and a general reduction of the duties on manufactured woolen fabrics of every description to 25 per cent ad valorem. On this basis the most experienced woolen manufacturers of the country assure the Commissioner that they can at once extend, diversify, and secure prosperity to their business. On this basis the cost of domestic woolen fabrics will be so far reduced as to give great relief to the consumer, and lead to an immediate and largely increased consumption. And on this basis only can the wool-grower expect any immediate increased demand for his staple product of merino fleece; while in respect to the combing and the finer wools it is sufficient to say, that the supply of these wools has not for the last few years increased in proportion to their consumption, and that the extension of their use in American industry, which would inevitably follow a remission of the duties upon their import, would so far increase their demand as to give to the domestic producer all the encouragement that would prove necessary.

APPENDIX B.

Statement showing the number of sheep in States east of the Mississippi and Missouri rivers during the years named.

States.	1860.	February, 1868.	1870.	1875.	1876.	1877.	1878.	1879.	1880.	1881.
Alabama	370,156	257,151	241,934	182,300	185,900	195,100	270,000	204,000	214,200	224,910
Connecticut	117,107	173,243	83,884	88,100	92,500	92,500	92,500	96,200	97,100	98,071
Delaware	18,857	17,072	22,714	23,200	23,600	23,600	35,000	37,400	38,800	38,800
Florida	30,158	5,005	26,599	31,500	37,800	40,400	56,500	59,900	59,900	70,083
Georgia	512,618	314,875	419,465	375,000	371,200	378,600	382,300	374,400	374,400	378,144
Illinois	769,135	2,736,431	1,568,286	1,380,000	1,311,000	1,258,500	1,258,500	1,089,000	1,110,800	1,155,232
Indiana	991,175	2,882,176	1,612,680	1,300,000	1,250,000	1,175,000	1,092,700	1,039,500	1,019,000	1,029,570
Iowa	259,041	2,591,370	855,493	1,607,900	1,663,900	1,680,500	560,000	445,500	454,400	463,488
Kentucky	938,990	895,865	936,765	759,600	683,600	690,400	900,000	1,020,000	1,009,800	1,020,996
Maine	452,472	752,542	434,666	491,500	525,900	520,600	525,800	557,300	596,300	632,078
Maryland	155,765	275,542	129,697	138,500	141,200	144,000	151,200	152,700	152,700	152,700
Massachusetts	114,829	175,149	78,560	76,300	76,300	61,000	60,300	60,900	63,300	65,199
Michigan	1,271,743	3,948,191	1,985,906	3,416,500	3,450,600	2,100,000	1,750,000	1,820,000	1,856,400	1,930,656
Minnesota	13,044	129,010	132,343	176,200	190,200	209,200	300,000	307,500	307,500	313,650
Mississippi	352,632	192,960	232,732	147,400	151,800	163,900	250,000	192,600	200,300	202,303
Missouri	937,445	1,377,547	1,352,001	1,366,200	1,284,200	1,297,000	1,271,000	1,296,400	1,523,300	1,619,931
New Hampshire	310,534	529,865	248,760	242,400	242,400	242,400	239,900	235,100	242,100	246,942
New Jersey	135,228	193,952	120,067	127,100	125,800	125,800	128,300	127,000	127,400	129,748
New York	2,617,855	4,996,894	2,181,578	1,996,400	1,936,500	1,897,700	1,518,100	2,121,000	2,205,800	2,338,118
North Carolina	546,749	325,684	463,435	275,700	283,900	281,000	490,000	425,000	425,000	385,900
Ohio	3,546,767	6,730,126	4,928,635	4,592,600	4,546,600	3,900,000	3,783,000	4,040,000	4,080,400	4,243,617
Pennsylvania	1,031,540	3,422,002	1,794,301	1,674,000	1,640,500	1,607,600	1,607,600	1,666,000	1,649,300	1,632,807
Rhode Island	32,624	36,588	23,938	25,300	25,300	25,000	24,500	24,500	28,200	28,200
South Carolina	233,509	179,864	124,594	147,200	142,700	144,100	175,000	182,000	176,500	187,090
Tennessee	773,317	264,041	826,783	325,500	341,700	345,100	850,000	858,500	858,500	858,500
Vermont	752,201	1,042,064	580,347	516,400	490,500	475,700	461,400	466,000	498,600	508,572
Virginia	1,043,269	658,624	870,145	367,500	356,400	367,000	422,000	417,800	426,100	447,405
West Virginia	.....	880,000	552,327	539,200	544,500	544,500	549,900	571,900	600,500	660,550
Wisconsin	332,954	1,880,758	1,069,282	1,211,300	1,162,800	1,151,100	1,323,700	1,313,000	1,316,100	1,329,261
Total	19,261,714	*37,364,600	23,397,917	23,690,800	23,279,300	21,137,800	20,529,200	21,201,100	21,712,700	22,392,551

* Total number of sheep of all ages, February, 1868, in the above States, and five other States reported, was 38,991,912, and their aggregate value was $98,407,809, but in the States east of the Mississippi and Missouri rivers the total number was 37,364,600.

APPENDIX B—Continued.

Statement showing the number of sheep in the States east of the Mississippi and Missouri rivers during the years named—Continued.

States.	1882.	1883.	1884.	1885.	1886.	1887.	1888.	1889.	1890.	1891.
Alabama	354,489	350,944	343,925	343,925	337,047	323,565	310,622	301,363	286,238	274,788
Connecticut	60,025	59,425	58,831	59,419	53,477	53,477	49,199	47,231	46,759	45,824
Delaware	22,077	22,077	22,077	22,519	22,294	22,294	22,294	22,294	22,294	22,517
Florida	58,382	102,000	98,940	97,951	91,094	90,183	92,888	91,959	110,351	111,455
Georgia	538,141	532,760	543,415	532,547	500,594	465,552	442,274	424,583	411,846	383,017
Illinois	1,026,702	1,149,906	1,126,908	1,093,101	1,005,653	925,201	814,177	778,468	688,387	770,993
Indiana	1,111,516	1,122,631	1,145,084	1,122,184	1,088,517	1,034,091	1,003,068	1,420,000	1,278,000	1,150,200
Iowa	482,681	497,161	497,161	472,303	467,580	425,498	408,478	540,700	475,816	452,025
Kentucky	990,266	1,000,169	980,166	950,761	903,223	858,062	797,998	805,978	805,978	765,679
Maine	577,236	577,236	577,236	548,374	537,407	526,659	547,725	547,725	542,248	547,670
Maryland	172,896	173,760	172,022	172,022	168,582	165,210	160,254	152,241	153,763	156,838
Massachusetts	68,659	69,346	69,346	67,959	64,561	63,270	62,637	59,505	56,530	55,965
Michigan	2,320,752	2,436,790	2,412,422	2,364,174	2,269,607	2,156,127	2,113,004	2,134,184	2,240,841	2,263,249
Minnesota	278,302	281,085	275,463	272,708	278,162	278,162	283,725	337,500	327,375	330,649
Mississippi	290,571	293,477	293,477	281,738	276,103	242,971	247,830	252,787	240,148	235,345
Missouri	1,425,411	1,453,919	1,439,380	1,338,623	1,285,078	1,182,272	1,087,690	1,109,444	1,198,200	898,650
New Hampshire	213,943	211,804	209,686	201,299	195,260	195,260	205,023	194,772	192,824	183,183
New Jersey	118,190	117,008	117,008	119,348	107,413	106,339	105,276	103,170	103,170	100,075
New York	1,732,332	1,732,332	1,732,332	1,697,685	1,595,824	1,579,866	1,564,067	1,548,426	1,548,426	1,393,583
North Carolina	470,871	466,162	452,176	488,350	468,816	450,063	427,560	419,009	414,819	398,226
Ohio	4,951,511	5,050,541	5,000,036	4,900,035	4,753,034	4,562,913	4,106,622	4,065,556	3,943,589	4,061,897
Pennsylvania	1,785,481	1,803,336	1,749,236	1,486,857	1,189,481	1,094,323	984,891	935,646	945,002	1,039,502
Rhode Island	21,514	21,729	21,077	20,866	20,449	20,245	20,852	20,435	20,231	20,433
South Carolina	120,078	120,078	116,476	117,641	112,935	108,418	107,334	105,187	102,031	98,970
Tennessee	675,478	675,478	655,214	635,558	603,780	561,515	516,594	526,926	511,118	511,118
Vermont	444,269	448,712	448,712	385,892	378,174	378,174	393,301	365,770	362,112	351,249
Virginia	502,262	502,262	487,194	477,450	463,127	449,233	444,741	435,846	444,563	444,563
West Virginia	681,517	684,925	671,226	637,665	624,912	593,666	474,933	484,432	508,654	518,827
Wisconsin	1,350,175	1,363,677	1,336,403	1,283,947	1,218,800	1,072,544	911,662	798,146	809,009	889,910
Total	22,845,727	23,320,730	23,052,629	22,191,901	21,080,984	19,968,153	18,706,719	19,019,173	18,790,322	18,476,400

TREASURY DEPARTMENT, BUREAU OF STATISTICS, *January* 22, 1892.

S. G. BROCK, *Chief of Bureau.*

APPENDIX C.

Statement showing the number of sheep in the States and Territories west of the Missouri and Mississippi rivers from 1860 *to* 1891.

States and Territories.	1860.	1870.	1880.	1887.	1888.	1889.	1890.	1891.
Louisiana	181, 253	118, 602	135, 631	111, 780	113, 965	116, 244	115, 082	113, 931
Texas	753, 363	714, 351	2, 411, 683	4, 761, 831	4, 523, 739	4, 659, 451	4, 752, 640	4, 990, 272
Arkansas	202, 753	161, 077	246, 757	224, 660	220, 167	224, 570	269, 484	269, 484
Kansas	17, 569	169, 088	499, 671	1, 106, 852	830, 139	730, 522	438, 313	447, 079
Nebraska	2, 355	22, 725	199, 453	439, 700	422, 112	342, 000	239, 400	234, 612
Colorado	.....	120, 928	746, 443	1, 149, 178	1, 137, 686	1, 114, 932	1, 783, 891	1, 819, 569
California	1, 088, 002	2, 768, 187	4, 152, 349	6, 069, 698	5, 462, 728	3, 956, 000	4, 035, 120	3, 712, 310
Nevada	376	11, 018	133, 695	674, 486	660, 996	694, 046	700, 986	504, 710
Oregon	86, 052	818, 123	1, 083, 162	2, 593, 029	2, 930, 123	2, 959, 424	2, 929, 830	2, 431, 759
Washington	10, 157	44, 063	292, 883	555, 439	549, 885	560, 883	673, 060	673, 060
Dakota	193	1, 901	30, 244	256, 209	269, 019	242, 117	266, 829	274, 319
Idaho	.....	1, 021	27, 326	231, 413	312, 408	374, 890	487, 357	501, 978
Montana	.....	2, 024	184, 277	754, 688	1, 265, 000	1, 391, 500	1, 989, 845	2, 089, 337
New Mexico	830, 116	619, 438	2, 088, 831	4, 025, 742	3, 623, 168	3, 514, 473	3, 092, 736	3, 123, 663
Arizona	.....	803	76, 524	627, 201	658, 561	665, 147	698, 404	593, 642
Utah	37, 332	59, 672	233, 121	658, 285	1, 335, 060	1, 468, 500	2, 055, 900	2, 055, 900
Wyoming	.....	6, 409	140, 225	534, 020	523, 340	565, 207	1, 017, 378	1, 119, 110
Total	3, 209, 521	5, 079, 430	12, 682, 225	24, 774, 161	24, 838, 036	23, 579, 906	25, 545, 750	24, 954, 736

TREASURY DEPARTMENT, BUREAU OF STATISTICS, *January* 22, 1892.

APPENDIX D.

Quantities of wool produced imported, exported, and retained for consumption in the United States from 1840 *to* 1891 *inclusive.*

Year ending June 30—	Production.	Exports of domestic.	Domestic retained for consumption.	Imports.	Exports of foreign.	Foreign retained for consumption.	Total consumption, foreign and domestic.	Per cent of consumption which was foreign.
	Pounds.	*Pounds.*	*Pounds.*	*Pounds.*	*Pounds.*	*Pounds.*	*Pounds.*	
1840a	b 35, 802, 114	.....	35, 802, 114	9, 898, 740	85, 528	9, 813, 212	45, 615, 326	21.5
1850	b 52, 516, 959	35, 898	52, 481, 061	18, 695, 294	.....	18, 695, 294	71, 176, 355	26.3
1860	b 60, 264, 913	1, 055, 928	59, 208, 985	26, 282, 955	157, 064	26, 125, 891	85, 334, 876	30.6
1863	106, 000, 000	355, 722	105, 644, 278	75, 121, 728	708, 850	74, 412, 878	180, 057, 156	41.3
1864	123, 000, 000	155, 482	122, 844, 518	91, 250, 114	223, 475	91, 026, 639	213, 871, 157	42.6
1865	142, 000, 000	466, 182	141, 533, 818	44, 420, 375	679, 281	43, 741, 094	185, 274, 912	23.6
1866	155, 000, 000	973, 075	154, 026, 925	71, 287, 988	852, 045	70, 435, 943	224, 462, 868	31.0
1867	160, 000, 000	307, 418	159, 692, 582	38, 158, 382	619, 614	37, 538, 768	197, 231, 350	19.0
1868	168, 000, 000	558, 435	164, 441, 565	25, 467, 336	2, 801, 852	22, 665, 484	190, 107, 049	11.9
1869	180, 000, 000	444, 387	179, 555, 613	39, 275, 926	342, 417	38, 933, 509	218, 489, 122	17.8
1870	162, 000, 000	152, 892	161, 847, 108	49, 230, 199	1, 710, 053	47, 520, 146	209, 367, 254	22.7
1871	160, 000, 000	25, 195	159, 974, 805	68, 058, 028	1, 305, 311	66, 752, 717	226, 727, 522	29.4
1872	150, 000, 000	140, 515	149, 859, 485	126, 507, 409	2, 343, 937	124, 163, 472	274, 022, 957	45.3
1873	158, 000, 000	75, 129	157, 924, 871	85, 496, 049	7, 040, 386	78, 455, 663	236, 380, 534	33.2
1874	170, 000, 000	319, 600	169, 680, 400	42, 939, 541	6, 816, 157	36, 123, 384	205, 803, 784	17.5
1875	181, 000, 000	178, 034	180, 821, 966	54, 901, 760	3, 567, 627	51, 334, 133	232, 156, 099	22.1
1876	192, 000, 000	104, 768	191, 895, 232	44, 642, 836	1, 518, 426	43, 124, 410	235, 019, 642	18.3
1877	200, 000, 000	79, 599	199, 920, 401	42, 171, 192	3, 088, 957	39, 082, 235	239, 002, 636	16.3
1878	208, 250, 000	347, 854	207, 902, 146	48, 449, 079	5, 952, 221	42, 496, 858	250, 399, 004	16.9
1879	211, 000, 000	60, 784	210, 939, 216	39, 005, 155	4, 104, 616	34, 900, 539	245, 839, 755	14.2
1880	232, 500, 000	191, 551	232, 308, 449	128, 131, 747	3, 648, 520	124, 483, 227	356, 791, 676	24.9
1881	240, 000, 000	71, 455	239, 928, 545	55, 964, 236	5, 507, 534	50, 456, 702	290, 385, 247	17.3
1882	272, 000, 000	116, 179	271, 883, 821	67, 861, 744	3, 831, 836	64, 029, 908	335, 913, 729	19.0
1883	290, 000, 000	64, 474	289, 935, 526	70, 575, 478	4, 010, 043	66, 565, 435	356, 500, 961	18.7
1884	300, 000, 000	10, 393	299, 989, 607	78, 350, 651	2, 304, 701	76, 045, 950	376, 035, 557	20.6
1885	308, 000, 000	88, 006	307, 911, 994	70, 506, 170	3, 115, 839	67, 480, 831	375, 392, 825	18.0
1886	302, 000, 000	146, 423	301, 853, 577	129, 084, 958	6, 534, 426	122, 550, 532	424, 404, 109	28.9
1887	285, 000, 000	257, 940	284, 742, 060	114, 038, 030	6, 728, 292	107, 309, 738	392, 051, 798	27.4
1888	269, 000, 000	22, 164	268, 977, 836	118, 558, 753	4, 359, 731	109, 199, 022	378, 176, 858	28.9
1889	265, 000, 000	141, 576	264, 858, 424	126, 487, 729	3, 263, 094	123, 224, 635	388, 083, 059	31.8
1890	276, 000, 000	231, 042	275, 768, 958	105, 431, 285	3, 288, 467	102, 142, 818	377, 911, 776	27.0
1891	285, 000, 000	291, 922	284, 708, 078	129, 308, 648	2, 638, 123	126, 670, 525	411, 378, 603	30.8

a Year ending September 30. b Census year.

S. G. BROCK,
Chief of Bureau.

TREASURY DEPARTMENT, BUREAU OF STATISTICS,
Washington, D. C., January 21, 1892

APPENDIX E.

Prices of Ohio fine, medium, and coarse washed fleece clothing wool in the markets of New York and Philadelphia (1824–1891).

[Currency prices from 1862 to 1878. Mauger & Avery's annual wool circular.]

Year.	January.			April.			July.			October.		
	Fine.	Medium.	Coarse.	Fine.	Medium.	Coarse.	Fine.	Medium.	Coarse.	Fine.	Medium.	Coarse.
	Cts.	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*ts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*
1824	68	53	40	70	46	31	55	40	30	60	40	30
1825	60	43	32	60	42	33	50	41	32	50	42	36
1826	55	43	38	52	46	41	37	30	26	43	37	32
1827	36	32	28	45	34	30	37	31	25	43	32	25
1828	42	30	25	44	36	28	48	38	33	48	40	32
1829	54	45	35	45	35	32	46	36	32	37	30	27
1830	40	35	30	50	38	32	60	50	40	70	66	48
1831	70	60	48	70	60	50	75	65	50	70	60	50
1832	65	55	44	66	52	42	50	42	30	50	40	30
1833	55	41	33	63	53	38	61	54	40	65	55	45
1834	70	60	48	67	56	44	60	50	40	62	50	40
1835	63	50	40	65	60	45	63	56	42	65	60	45
1836	65	60	45	68	62	47	70	60	50	70	60	50
1837	72	63	48	68	56	46	52	52	36	49	40	31
1838	50	42	35	50	42	35	46	36	30	56	48	37
1839	56	48	38	56	48	38	57	48	40	60	55	44
1840	50	45	38	49	43	36	45	39	33	46	38	33
1841	52	45	35	53	46	37	50	44	34	48	42	33
1842	48	42	35	46	40	32	43	37	30	38	31	25
1843	35	30	25	33	28	25	35	30	26	36	32	26
1844	37	30	26	43	36	30	45	37	32	50	40	33
1845	47	40	31	45	38	32	40	36	30	38	35	28
1846	40	35	30	38	33	28	38	32	27	36	30	22
1847	45	40	30	47	40	31	46	40	31	47	40	30
1848	45	38	30	43	37	30	38	32	28	33	30	24
1849	33	30	23	40	36	30	40	35	28	42	36	30
1850	47	40	33	45	37	30	45	37	30	46	40	35
1851	46	40	33	50	44	36	47	42	37	45	40	35
1852	43	38	34	42	36	33	45	38	33	50	42	37
1853	58	56	50	62	56	50	60	53	48	55	50	48
1854	53	47	42	57	52	46	45	37	30	42	36	30
1855	40	35	32	43	35	32	50	40	33	52	41	36
1856	50	38	35	57	45	38	55	42	36	60	55	45
1857	58	50	42	60	56	45	56	50	40	38	30	25
1858	40	33	27	42	35	30	43	37	30	56	41	36
1859	60	52	45	60	46	37	56	40	35	60	50	42
1860	60	50	42	52	45	40	55	50	40	50	45	40
1861	45	40	37	45	37	32	38	30	22	47	48	50
1862	48	50	50	46	45	43	48	47	45	60	60	63
1863	75	68	70	80	85	80	75	70	65	85	80	76
1864	80	78	76	78	77	72	100	100	90	103	95	100
1865	102	100	96	80	80	75	75	73	65	75	75	65
1866	70	65	50	65	60	48	70	67	60	63	60	56
1867	68	58	50	60	55	50	55	49	45	48	48	40
1868	48	43	38	50	48	45	46	45	43	48	48	45
1869	50	50	48	50	50	48	48	48	47	48	48	46
1870	48	46	44	48	47	46	46	45	43	48	43	44
1871	47	46	43	50	52	47	62	60	55	63	62	58
1872	70	72	66	80	80	76	72	70	65	66	60	57
1873	70	68	65	56	53	48	50	48	44	54	53	47
1874	58	54	47	56	56	47	53	53	46	54	54	47
1875	55	56	47	54	52	46	52	49	46	48	50	42
1876	48	52	42	46	49	40	38	35	31	45	40	33
1877	46	43	36	45	40	33	50	44	37	48	44	36
1878	44	45	38	40	43	35	36	36	32	35	37	32
1879	34	35	32	34	34	31	37	38	34	41	43	38
1880	50	55	48	55	60	52	46	48	42	46	48	42
1881	47	49	43	40	44	37	42	44	36	43	46	36
1882	44	46	47	42	45	34	42	45	34	42	45	34
1883	40	43	33	44	44	37	39	41	33	39	40	34
1884	40	40	34	38	38	34	35	34	30	35	34	30
1885	34	33	29	32	32	28	32	31	28	33	35	32
1886	35	36	32	33	34	30	33	33	29	35	38	34
1887	33	38	33	33	37	33	34	38	35	32	36	34
1888	31	35	33	31	34	33	29	33	31	31	34	31
1889	34	38	33	33	37	31	35	39	32	33	37	31
1890	33	37	29	33	36	29	33	37	29	33	37	31
1891	33	37	31	32	37	31	31	35	29	31	35	30

APPENDIX F.

TREASURY DEPARTMENT,
BUREAU OF STATISTICS,
Washington, D. C., January 29, 1892.

DEAR SIR: In compliance with your recent request, I have the honor to transmit to you herewith two tables showing the net imports of wools and woolens into the United States during the six and twelve months ended December 31, 1889, and 1891, respectively.

I have explained, in our interviews with your son, in regard to this matter, that we are unable to give the complete details of imports of wool and woolens, with duties collected thereon, shown in the report of imports entered for consumption, later than to June 30 last, but I think that the tables herewith inclosed will probably answer your purpose as nearly as would the more detailed statements.

By the term net imports is meant the imports less the exports of the same articles of foreign production. Net imports represent substantially the imports for consumption, barring the difference of goods warehoused and withdrawn from warehouse during the same period.

Very respectfully,

S. G. BROCK,
Chief of Bureau.

Hon. WM. M. SPRINGER, M. C.,
House of Representatives, Washington, D. C.

Statement showing the net imports of wools and manufactures of, into the United States during the years ending December 31, 1889 and 1891.

Articles.	1889.		1891.		Increase.		Decrease.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.
Wools, hair of the camel, goat, alpaca, and other like animals, and manufactures of:								
Unmanufactured—								
Class 1 ..... lbs..	27, 148, 970	$5, 781, 274	34, 609, 730	$7, 448, 263	7, 460, 760	$1, 666, 889	.....	.....
Class 2 ..... do...	8, 217, 685	2, 001, 044	5, 944, 607	1, 422, 137	.....	.....	2, 273, 078	$578, 907
Class 3 ..... do...	89, 428, 456	10, 268, 917	96, 043, 390	9, 573, 119	6, 614, 844	.....	.....	695, 798
Total unmanufactured ..... do...	124, 795, 111	18, 051, 935	136, 597, 637	18, 443, 619	11, 862, 826	391, 684	.....	.....
Manufactures of—								
Carpets and carpeting ..... sq. yds..	630, 659	742, 641	639, 232	1, 420, 173	8, 573	677, 532	.....	.....
Clothing, ready-made, and other wearing apparel, except shawls and knit goods	.....	1, 857, 671	.....	1, 713, 811	.....	.....	.....	143, 860
Cloths ..... lbs..	13, 484, 287	12, 985, 592	11, 848, 368	11, 459, 905	.....	.....	1, 635, 919	1, 525, 687
Dress goods, women's and children's ..... sq. yds..	98, 429, 664	20, 349, 422	70, 469, 428	16, 145, 018	.....	.....	27, 960, 236	4, 204, 404
Knit fabrics	.....	1, 604, 878	.....	1, 018, 023	.....	.....	.....	586, 855
Rags, mungo, flocks, noils, shoddy, etc ..... lbs..	8, 428, 213	3, 418, 109	168, 720	51, 204	.....	.....	8, 264, 493	3, 366, 905
Shawls	.....	901, 515	.....	562, 295	.....	.....	.....	339, 220
Yarns ..... lbs..	4, 153, 897	2, 396, 924	1, 161, 145	738, 451	.....	.....	2, 992, 752	1, 658, 473
All other	.....	9, 585, 294	.....	1, 712, 638	.....	.....	.....	7, 872, 656
Total manufactures of	.....	53, 842, 046	.....	34, 821, 518	.....	.....	.....	19, 020, 528
Total wools and woolens	.....	71, 893, 981	.....	53, 265, 137	.....	.....	.....	18, 628, 844

S. G. Brock,
Chief of Bureau.

Treasury Department, Bureau of Statistics,
January 29, 1892.

APPENDIX G.

Statement showing the net imports of wools and manufactures of, into the United States during the six months ending December 31, 1889 and 1891.

Articles.	1889.		1891.		Increase.		Decrease.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	e	Quantities.	Values.
Wools, hair of the camel, goat, alpaca, and other like animals, and manufactures of:								
Unmanufactured—								
Class 1 ..... lbs..	4,604,543	$1,108,173	12,382,221	$2,677,274	7,777,678	$1,569,101	.....	.....
Class 2 ..... do...	5,330,257	1,331,109	3,273,063	787,219	.....	.....	2,057,194	$543,890
Class 3 ..... do..	41,715,980	4,799,828	49,675,537	4,698,262	7,959,557	.....	.....	101,566
Total unmanufactured	51,650,780	7,239,110	65,330,821	8,162,755	13,680,041	923,645	.....	.....
Manufactures of—								
Carpets and carpeting ..... sq. yds..	361,119	464,203	317,186	639,092	.....	174,889	43,933	.....
Clothing, ready-made, and other wearing apparel, except shawls and knit goods	.....	1,132,773	.....	936,961	.....	.....	.....	195,812
Cloths ..... lbs..	9,253,081	8,535,463	6,881,358	6,562,166	.....	.....	2,371,723	1,973,297
Dress goods, women's and children's ..... sq. yds	50,526,023	10,407,331	37,004,756	8,788,364	.....	.....	13,521,267	1,618,967
Knit fabrics	.....	1,212,183	.....	800,647	.....	.....	.....	411,536
Rags, mungo, flocks, noils, shoddy, etc ..... lbs..	2,987,628	1,224,945	106,154	40,329	.....	.....	2,881,474	1,184,616
Shawls	.....	485,402	.....	226,399	.....	.....	.....	259,003
Yarns ..... lbs..	1,697,314	1,009,522	611,484	379,255	.....	.....	1,085,830	630,267
All other	.....	3,238,264	.....	639,461	.....	.....	.....	2,598,803
Total manufactures of	.....	27,710,086	.....	19,012,674	.....	.....	.....	8,697,412
Total wools and woolens	.....	34,949,196	.....	27,175,429	.....	.....	.....	7,773,767

S. G. BROCK,
Chief of Bureau.

TREASURY DEPARTMENT, BUREAU OF STATISTICS,
January 29, 1892.

sponds to the Ohio washed fleece wool is the Port Phillip fleece, and this is the line of quotation which should be studied to ascertain the relative London and Boston prices of wool at any given time.

Copies of this diagram are inclosed, and additional copies will be forwarded for the use of your committee if they should be desired at any time.

Very respectfully yours,

S. N. D. NORTH,
Secretary and Special Agent Eleventh Census.

Hon. WILLIAM M. SPRINGER,
Chairman Ways and Means Committee, Washington, D. C.

BOSTON, MASS., *February* 15, 1892.

DEAR SIR: I am in receipt of your letter of February 12, and take pleasure in inclosing herewith, as requested, a table compiled from the diagram previously forwarded to you, showing in parallel columns the average Boston prices of Ohio medium washed fleeces and the average London prices for corresponding dates of Port Phillip fleece, from 1866 to 1890. The London figures for 1891 are not yet available, but will be forwarded as soon as possible.

The Port Phillip fleece is a washed wool, as is also the Ohio fleece quoted.

The London prices are reduced to American money. It should be observed that these London prices are uniformly *gold* prices, while the American prices are average prices in *currency*, until the resumption of specie payments January 1, 1879.*

I also send you by this mail a copy of the last bulletin of this association, in which you will find the notes of Mauger & Avery, indicating the condition of the domestic and the English wool markets during each of the years covered by this table.

With great respect, I have the honor to be, your obedient servant,

S. N. D. NORTH,
Secretary.

Hon. WILLIAM M. SPRINGER,
Chairman Ways and Means Committee.

	Cents.
Average annual price of wool for the twenty-five years:	
Ohio	41.48
Port Phillip	41.04
Difference in favor of American wool	.44
Average annual price of wool for twenty-three years omitting 1871-'72:	
Ohio	40.26
Port Phillip	40.52
Difference in favor of foreign wool	.26

*In the table which follows, a separate column has been added to show the *gold* prices of American wool.

Average price in Boston of Ohio medium wool and average price in London of Port Phillip fleece in American currency, 1866 *to* 1890—*both washed wools.*

[London quotations from Windeler & Co. American prices from Manger & Avery, Boston.]

Year.	Month.	Ohio medium (currency).	Ohio medium (gold).*	Port Phillip fleece (gold).
		Cts.	*Cts.*	*Cts.*
1866	Mar	.65	.50	.52
	June	.60	.40	.44
	Sept	.67	.46	.48
	Dec	.60	.44	.45
1867	Mar	.53	.39	.44
	June	.55	.40	.44
	Sept	.49	.34	.43
	Dec	.46	.34	.42
1868	Mar	.43	.31	.42
	June	.48	.34	.42
	Sept	.45	.31	.38
	Dec	.48	.36	.40
1869	Mar	.50	.38	.36
	June	.50	.36	.32
	Sept	.48	.35	.34
	Dec	.48	.40	.34
1870	Feb	.46	.39	.36
	May	.47	.41	.36
	July	.45	.39	.34
	Sept	.48	.42	.32
	Dec	.48	.43	.33
1871	Feb	.46	.41	.35
	May	.52	.47	.39
	July	.60	.52	.43
	Oct	.62	.55	.46
	Dec	.62	.57	.48
1872	Feb	.72	.65	.54
	May	.80	.70	.47
	July	.70	.61	.50
	Sept	.60	.53	.53
	Dec	.60	.53	.55
1873	Feb	.68	.60	.50
	May	.53	.45	.52
	July	.48	.41	.53
	Oct	.53	.49	.55
	Dec	.53	.48	.51
1874	Feb	.54	.48	.51
	May	.56	.50	.50
	June	.53	.48	.52
	Aug	.54	.49	.53
	Dec	.54	.48	.52
1875	Feb	.56	.49	.49
	May	.52	.45	.50
	June	.49	.42	.48
	Aug	.50	.44	.46
	Dec	.50	.44	.47
1876	Feb	.52	.46	.45
	May	.49	.44	.42
	June	.35	.31	.37
	Aug	.40	.36	.40
	Dec	.40	.37	.45
1877	Feb	.43	.41	.42
	May	.40	.37	.39
	June	.44	.42	.43
	Aug	.44	.42	.42
	Dec	.44	.43	.43
1878	Mar	.45	.44	.43
	May	.43	.43	.42
	July	.36	.36	.44
	Sept	.37	.37	.42
	Dec	.37	.37	.40

Year.	Month.	Ohio medium (gold).	Port Phillip fleece (gold).
		Cts.	*Cts.*
1879	Mar	.35	.40
	June	.34	.42
	Sept	.38	.40
	Dec	.43	.43
1880	Feb	.54	.46
	April	.60	.49
	June	.48	.43
	Sept	.48	.44
	Dec	.48	.44
1881	Mar	.49	.40
	June	.44	.41
	Aug	.44	.41
	Sept	.46	.41
	Dec	.46	.42
1882	Feb	.46	.43
	May	.45	.44
	Aug	.45	.44
	Sept	.45	.44
	Dec	.45	.43
1883	Mar	.43	.43
	June	.44	.43
	Sept	.41	.41
	Oct	.40	.41
	Dec	.40	.42
1884	Feb	.40	.40
	May	.38	.39
	June	.34	.39
	July	.34	.40
	Nov	.34	.39
1885	Jan	.33	.38
	Apr	.32	.37
	July	.31	.36
	Sept	.35	.33
	Dec	.35	.33
1886	Feb	.36	.33
	Apr	.34	.29
	July	.33	.34
	Sept	.38	.37
	Dec	.38	.33
1887	Feb	.38	.34
	Apr	.37	.34
	July	.37	.32
	Sept	.36	.30
	Dec	.36	.31
1888	Feb	.35	.31
	Apr	.34	.31
	July	.33	.32
	Sept	.34	.33
	Dec	.34	.34
1889	Feb	.38	.33
	Apr	.37	.34
	July	.39	.36
	Sept	.37	.38
	Dec	.37	.40
1890	Feb	.37	.37
	May	.36	.34
	July	.37	.32
	Oct	.37	.34
	Dec	.37	.32
1891	.....	.....	.....
	.....	.....	.....

S. N. D. North,
Secretary National Association of Wool-Manufacturers, Boston, Mass.

* The prices reduced to a gold basis were calculated upon the value of currency at the dates indicated as given in the Quarterly Report of the Chief of the Bureau of Statistics of the Treasury Department for the fiscal year ending June 30, 1879.

APPENDIX K.

TWENTY-FIVE YEARS OF THE WORLD'S WOOL MARKETS.

[From the Bulletin of the National Association of Wool Manufacturers, December, 1891, pp. 362 *et seq.*]

At the request of the secretary of the National Association, Mr. Charles F. Avery, of the firm of Manger & Avery, has very kindly and with much labor prepared a series of notes on the state of the domestic and foreign markets for each year covered by the diagram [1866–1890*], concisely reciting the causes of the fluctuations as revealed in contemporaneous wool circulars and the records of the firm. We believe no similar compilation has ever been attempted, and Mr. Avery's notes therefore have a permanent historical value.

PROMINENT EVENTS AND STATISTICS AFFECTING THE VALUE OF WOOL IN AMERICA AND EUROPE FROM 1866 to 1890.

America.	1866.	*Europe.*
APRIL. Decline in gold. JULY. Proposed advance in duties; advance in gold. AUGUST. Tariff bill defeated in Senate.		Increase of clip of wool in British Colonies and South America. Commercial depression following large increase of production in Europe.
Importation of manufactures of wool entered for consumption, $58,719,756. Clip of the United States, 160,000,000 lbs. Premium on gold December 31, 136. [For "premium," read *price;* and so, throughout.]		Estimated population of Europe and North America, 321,000,000. Estimated consumption of raw wool, Europe and North America, 1,217,000,000 lbs. Average value per bale of Colonial wool, $122. Estimated imports of Colonial wool into Europe and America, 455,812 bales.
	1867.	
JANUARY. Depression in the woolen goods market. APRIL. Wool tariff bill passed. JUNE. Market overstocked with wool imported in anticipation of higher prices expected after passage of tariff bill. SEPTEMBER. Overproduction of woolen goods.		Large supplies from South America and the colonies, with manufactured products greater than the demand, and also depression as a result of overproduction.
Importation of class 1 and 2 wools, 1,420,000 pounds. Importation of sheepskins with wool on for the year, $341,930. Importation of manufactures of wool, $45,746,000. Clip of the United States, 168,000,000 pounds. Premium on gold, December 31, 135.		Estimated population of Europe and North America, 324,000,000. Estimated consumption of raw wool, Europe and North America, 1,268,600,000 pounds. Average value of Colonial wools per bale, $104. Estimated imports of Colonial wool into Europe and North America, 541,059 bales.
	1868.	
FEBRUARY. Great depression in the woolen goods market. Convention of manufacturers to curtail production of goods 25 per cent. OCTOBER. Presidential campaign. DECEMBER Tight money market.		Overproduction causes decline in value of products. Lower prices enlarging the consumption of manufactured products.
Importation of class 1 and 2 wools, 6,486,000 pounds.		Estimated population of Europe and North America, 327,000,000. Estimated consumption of raw wool in Europe and North America, 1,342,300,000 pounds.

* See Appendix J.

America. 1868. *Europe.*

Importation of sheepskins, $130,759.
Importation of manufactures of wool, $33,161,000.
Clip of the United States, 177,000,000 pounds.
Premium on gold, December 31, 135.

Average value per bale of Colonial wool, $93.
Estimated imports of Colonial wool into America and Europe, 633,959 bales.
Clip of Great Britain, 162,000,000 pounds.

1869.

FEBRUARY. Improved condition of money market.
MARCH. Slaughter of sheep on account of low value of wools.
SEPTEMBER. Failures in the woolen trade.

Depression in manufacturing interests.
Political events cause apprehension.
Large supplies of raw materials.

Importation of class 1 and 2 wools, 7,045,000 pounds.
Importation of sheepskins, $561,986 (more than double the value of class 1 and 2 wools imported).
Importation of manufactures of wool, $34,812,000.
Clip of the United States, 162,000,000 pounds.
Premium on gold, December, 121¼.

Estimated population of Europe and North America, 330,000,000.
Estimated consumption of raw wool, Europe and North America, 1,318,900,000 pounds.
Average value per bale of Colonial wool, $79.
Estimated imports of Colonial wool into Europe and North America, 633,959 bales.
Clip of Great Britain, 155,591,000 pounds.

1870.

MARCH. Decline in gold.
MAY. Manufacturing unprofitable; credits questioned.
AUGUST. Advance in gold.
DECEMBER. Supplies of wool reduced, manufactured products in light supply throughout the country.

War in Europe.
Some branches of business improved.
Steady consumption of wool, but stocks large.

Importation of class 1 and 2 wools, 9,283,000 pounds.
Importation of sheepskins, $1,577,110 (nearly 50 per cent more than value of class 1 and 2 wools imported during year).
Importation of manufactures of wools, $35,096,000.
Clip of United States, 163,000,000 pounds.
Premium on gold, December, 110¼.

Estimated population of Europe and North America, 333,000,000.
Estimated consumption of raw wool in Europe and North America, 1,291,000,000 pounds.
Average value per bale of Colonial wool, $84.
Estimated imports of Colonial wool into Europe and North America, 673,314 bales.
Clip of Great Britain, 149,576,000 pounds.

1871.

JANUARY. Stocks of wool lighter than usual. Small supply of goods.
JULY. Great falling off in clip of the United States.
SEPTEMBER. Advance in values of goods and general improvement in business.
OCTOBER. Speculation in wools and woolens.
DECEMBER. Fabulous profits realized by speculators.

APRIL. Demand from France and Germany to repair waste of the war.
OCTOBER. Improvement in all lines of business in Europe from the depression which had lasted for several years.
Speculation in wool.

Importation of class 1 and 2 wools, 23,623,000 pounds

Estimated population of Europe and North America, 335,000,000.

America. 1871. *Europe.*

Importation of sheepskins, $2,197,793 (almost as much in value as all the class 1 and 2 wools imported).

Importation of manufactures of wool, $42,895,000.

Clip of the United States, 146,000,000 pounds.

Premium on gold, December, 109¼.

Estimated consumption of raw wool, Europe and North America, 1,340,700,000 pounds.

Average value per bale of Colonial wool, $103.

Estimated imports of Colonial wool into Europe and North America, 693,990 bales.

Clip of Great Britain, 144,783,000.

1872.

JANUARY. Wild speculation in wools of all kinds.

FEBRUARY. Prices advancing.

MARCH. Wools contracted for on the sheep's back, in Ohio and Michigan, at 65 to 70 cents per pound.

APRIL. Discussion of another tariff bill.

MAY. Reaction in wool market. Poor market for woolens.

JUNE. Duty on wool and woolens reduced 10 per cent.

DECEMBER. Boston fire destroyed 9,000,000 pounds of wool and woolen goods, equivalent to 20,000,000 pounds of wool. Market suffering from overproduction of 1871–1872, and tight money market; 7,000,000 pounds foreign wool re-exported.

Importation of class 1 and 2 wools, 58,027,000 pounds.

Importation of sheepskins, $4,466,000.

Importation of manufactures of wool, $50,235,000.

Clip of the United States, 160,000,000 pounds.

Premium on gold, December, 112¼.

Reaction from extreme prices in the spring; but values not being as speculative as in America, the market rallied, and owing to the greatly increased consumption in England and Europe, prices again advanced during the fall and winter.

Estimated population of Europe and North America 338,000,000.

Estimated consumption of raw wool in Europe and America 1,391,000,000 pounds.

Average value per bale of Colonial wool, $133.

Estimated imports of Colonial wool into Europe and North America, 743,000 bales.

Clip of Great Britian, 155,680,000 pounds.

1873.

FEBRUARY. Overproduction of goods. Market overstocked with wools. Manufacturers lessen production.

MARCH. Continued depression; money scarce.

OCTOBER. Panic in the money market and failures during balance of the year.

More than 6,000,000 pounds of foreign wool re-exported.

Importation of class 1 and 2 wools, 55,569,000 pounds.

Importation of manufactures of wool, $52,000,000.

Clip of the United States, 174,000,000 pounds.

Premium on gold, December, 110¼.

Expansion in manufacturing which followed the close of the war in Europe continues. Supply and demand for wool fairly equal.

Estimated population of Europe and North America, 341,000,000.

Estimated consumption of raw wool, Europe and North America, 1,410,700,000 pounds.

Average value per bale of Colonial wool, $123.

Estimated imports of Colonial wool into Europe and North America, 747,000 bales.

Clip of Great Britain, 165,350,000 pounds.

America. 1874. *Europe.*

JANUARY. Depression following panic of 1873.

MARCH. Labor strikes; stoppage of woolen machinery; depression in business.

JUNE. Margins for manufacturers close.

NOVEMBER. Depression in manufacturing. Reduction of 25 per cent in the manufacture of woolen goods.

JUNE. Numerous failures in England in the worsted and iron industries, the result of overproduction.

NOVEMBER. Partial recovery in general business.

Importation of class 1 and 2 wools, 29,485,000 pounds.

Importation of manufactures of wool, $47,675,000.

Clip of the United States, 178,000,000 pounds.

Premium on gold, December, 111¼.

Estimated population of Europe and North America, 344,000,000.

Estimated consumption of raw wool, Europe and North America, 1,413,000,000 pounds.

Average value per bale of Colonial wool, $117.

Estimated imports of Colonial wool into Europe and North America, 829,000 bales.

Clip of Great Britain, 167,042,000 pounds.

1875.

APRIL. Act of June 6th, 1872, reducing duties on wool and woolens 10 per cent, repealed.

AUGUST. As a means of relief to check the continued overproduction of woolen goods, manufacturers resolve to stop machinery.

DECEMBER. Unsatisfactory goods market. Numerous failures.

MARCH. Manufacturing of woolens in England unprofitable, but there is a steady consumption of merino wools in Europe.

AUGUST. Deficient harvests in Europe.

DECEMBER. Business (owing to poor crops and other causes) very unremunerative; values declining.

Importation of class 1 and 2 wools, 20,817,000 pounds.

Importation of manufactures of wool, $45,627,000.

Clip of the United States, 193,000,000 pounds.

Premiums on gold, December, 114.

Estimated population of Europe and North America, 347,000,000.

Estimated consumption of raw wool in Europe and North America, 1,449,000,000 pounds.

Average value per bale of Colonial wool, $112.

Estimated imports of Colonial wool into Europe and North America, 917,000 bales.

Clip of Great Britain, 161,782,000 pounds.

1876.

FEBRUARY. Lack of confidence. Failures of manufacturers.

MAY. Unusual depression and shrinkage of values.

AUGUST. Overproduction. Stoppage of woolen machinery. Large sales of goods at auction.

NOVEMBER. Presidential election and uncertainty during fall and winter.

JANUARY. Improvement in demand for wools.

MARCH. Fears of an Eastern war; decline in values.

APRIL. Continued sluggishness in business.

JUNE. Depression in coal, iron, and wool. Reductions in wages.

AUGUST. Improvement in business.

NOVEMBER. War question settled.

Importation of class 1 and 2 wools, 11,810,000 pounds.

Importation of manufactures of wool, $34,372,000.

Clip of United States, 198,000,000 pounds.

Estimated population of Europe and North America, 350,000,000.

Average value per bale of Colonial wool, $93.

Estimated imports of Colonial wool into Europe and North America, 936,000 bales.

Clip of Great Britain, 155,835,000 pounds.

America. 1877. *Europe.*

FEBRUARY. Business restricted on account of uncertainty as to the election of President.
APRIL. Failures of manufacturers.
MAY. Crisis in America.
AUGUST. Railroad strikes throughout the country.

MAY. War between Russia and Turkey.
JUNE. Europe overstocked with wool and cotton.
Labor troubles in Europe.
Financial crisis in France.
SEPTEMBER. Famine in India.
NOVEMBER. Continued disturbance in Europe. Fears of political complications.
DECEMBER. Labor disputes.

Importation of class 1 and 2 wools, 11,804,000 pounds.
Importation of manufactures of wool, $26,452,000.
Clip of United States, 208,000,000 pounds.

Estimated population of Europe and North America, 353,000,000.
Average value per bale of Colonial wool, $93.
Estimated imports of Colonial wool into Europe and North America, 1,021,000 bales.
Clip of Great Britain, 152,172,000 pounds.

1878.

FEBRUARY. Failures of woolen manufacturers. Unprofitable business. Fear of Congressional action on tariff and currency. Poor spring trade in woolens.
JUNE. Unsatisfactory market for woolen goods.
JULY. Auction sales of woolen goods.
AUGUST. Easy money market; improved tone to business.
SEPTEMBER. Continued improvement in general business.
DECEMBER. Talk of exporting domestic wools.

APRIL. Continued depression in business. Political disturbance.
MAY. Worse depression in trade.
JULY. Peace assured by the Berlin Congress. Labor troubles supposed to be settled. Market improves.
OCTOBER. Failure of Glasgow Bank.
NOVEMBER. Money troubles. Production of woolens checked.

Importation class 1 and 2 wools, 13,045,000 pounds.
Importation of manufactures of wool, $25,703,000.
Clip of United States, 211,000,000 pounds.

Estimated population of Europe and North America, 355,000,000.
Average value of Colonial wool, $93.
Estimated imports of Colonial wool, Europe and North America, 970,000 bales.
Clip of Great Britain, 151,700,000 pounds.

1879.

JANUARY. Resumption of specie payments.
FEBRUARY. Failures in the woolen trade.
MAY. Woolen goods move freely at low prices.
JULY. Depression in wool market, but woolens improving.
OCTOBER. Immense crops. Farms worth $75 per acre yielding crops of wheat equivalent to $25 to $35 per acre.
DECEMBER. General prosperity.

FEBRUARY. Despondent feeling in regard to business generally. Trade and manufacturing unremunerative. Labor dissatisfied.
APRIL. Better feeling. Improvement in all industries.
JULY. Relapse in condition of trade.
AUGUST. Unseasonable weather. Danger to harvests in Europe.
SEPTEMBER. American demand excites speculation in raw materials.
DECEMBER. Surplus of goods and raw materials reduced by export to America. Better feeling all around.

Importation class 1 and 2 wools 6,940,000 pounds.
Importation of manufacture of wools, $25,037,000.
Clip of the United States, 232,000,000 pounds.

Estimated population of Europe and North America, 358,000,000.
Average value per bale Colonial wool, $82.
Estimated imports of Colonial wool, Europe and America, 1,015,000 bales.
Clip of Great Britain, 153,233,000 pounds.

America. 1880. *Europe.*

FEBRUARY. Trade active in every branch.
MARCH. Steady demand for goods.
APRIL. Large supplies of wool. Manufacturers well employed.
JUNE. Reaction from speculation in wool. Goods selling well.
NOVEMBER. Presidential election.
DECEMBER. Market overstocked with raw material and foreign goods.

Importation class 1 and 2 wools 40,051,000 pounds.
Importation of manufactures of wool, $31,834,000.
Clip of United States, 264,000,000 pounds.

JANUARY. Improvement in home consumption of woolens throughout Europe.
MARCH. Prosperity in general business continues.
APRIL. Advance in values checked. Strikes of laborers in France.
JUNE to AUGUST. Values decline.
SEPTEMBER. Trade improves.

Estimated population of Europe and North America, 361,000,000.
Average value per bale Colonial wool, $103.
Estimated imports of Colonial wool into Europe and North America, 1,088,000 bales.
Clip of Great Britain, 148,729,000 pounds.

1881.

JANUARY. Great increase in machinery for manufacturing wool. Manufacturers and merchants heavily supplied with wools of all kinds.
FEBRUARY. Manufacturing hindered by lack of water in streams.
APRIL. Inclement season and prolonged winter interferes with sales of woolens. Break in values of wools. Shrinkages in values cause failures.
MAY. Fair demand for heavy woolens.
AUGUST. Anxiety in commercial circles as to effect of expected death of President Garfield.
SEPTEMBER. Improvement in general business.
NOVEMBER. Woolen mills well employed.

Importation of class 1 and 2 wools, 25,031,000 pounds.
Importation of manufactures of wool, $33,103,000.
Clip of United States, 290,000,000 pounds.

FEBRUARY. Decline in London sales 7%. Depression in manufactures in Bradford. Strikes in Lancashire.
JUNE. Improvement in demand for woolen goods.
SEPTEMBER. Unseasonable weather. Rise in Bank of England rates. Drain of gold to the United States.
NOVEMBER. Low prices enlarge consumption of wool and woolens.
DECEMBER. Increased confidence in commercial circles.

Estimated population of Europe and North America, 364,000,000.
Average value of Colonial wools per bale, $86.
Estimated imports of Colonial wool into Europe and North America, 1,166,000 bales.
Clip of Great Britain, 138,574,000 pounds.

1882.

APRIL. Labor troubles; tariff agitation.
MAY. Unseasonable weather.
JULY. Partial stoppage of woolen machinery.
OCTOBER. Auction sales of goods. Stringent money market.
NOVEMBER. Failures of woolen manufacturers.

Importation of class 1 and 2 wools, 15,807,000 pounds.
Importation of manufactures of wool, $37,284,000.
Clip of United States, 300,000,000 pounds.

FEBRUARY. Financial disturbance in France.
APRIL. Large production of manufactures of wool, but profits small.
OCTOBER. Money market unsettled. Failures at Bradford.
DECEMBER. Depression in woolen manufacturing in France. Heavy accumulation of merchandise in Europe.

Estimated population of Europe and North America, 367,000,000.
Average value of Colonial wool per bale, $87.
Estimated imports of Colonial wool into Europe and America, 1,191,000 bales.
Clip of Great Britain, 129,000,000 pounds.

America. 1883. *Europe.*

FEBRUARY. Tariff agitation.

APRIL. Uncertainty as to effect on values of the proposed tariff. Woolen goods slow of sale.

MAY. Overproduction of woolens. Auction sales of woolens; prices realized 10 to 25 per cent below former market prices.

JUNE. Auction sales of goods; prices very low.

JULY. Tariff of 1883 goes into effect. "Jersey Boom" helps worsted manufacturers.

AUGUST. Curtailment of production. (Estimated by Journal of Commerce equal to ten million yards of goods.)

OCTOBER. Failures of manufacturers.

DECEMBER. Increase in importation of foreign woolens and yarns. Increase in importation of woolen and worsted yarns for July, August, and September, more than 60 per cent of total importation of 1882; nearly as much ready-made clothing imported in three months as for the year 1882.

Importation of class 1 and 2 wools, 12,919,000 pounds.

Importation of manufactures of wool, $42,562,000.

Clip of United States, 320,400,000 pounds.

FEBRUARY. Continued depression in woolen manufacturing in Europe.

JULY. Prospects of good harvest.

AUGUST. Overproduction of goods.

SEPTEMBER. Wool buyers operating with reserve.

NOVEMBER. Improvement in general business. Large shipments of all kinds of merchandise from Bradford.

Estimated population of Europe and North America, 370,000,000.

Average value per bale of Colonial wool, $83.

Estimated imports of raw wool into Europe and North America, 1,255,000 bales.

Clip of Great Britain, 128,338,000 pounds.

1884.

FEBRUARY. Curtailment of production of goods. Labor difficulties.

MARCH. Uncertainty as to further tariff legislation.

MAY. Wall street panic. Woolen goods unremunerative.

JUNE. Financial stringency. Curtailment of production of goods.

OCTOBER. Uncertainty as to the effects of the approaching election.

Importation of class 1 and 2 wools, 25,178,000 pounds.

Importation of manufactures of wool, $51,484,000.

Clip of United States, 337,000,000 pounds.

JANUARY. Woolen manufacturing in England and Scotland unsatisfactory. Mild winter; accumulation of goods.

JULY. All branches of industry dull.

NOVEMBER. Stock of wool accumulating. Profits in manufacturing very small. Anxiety and depression throughout Europe during the year.

Estimated population of Europe and North America, 373,000,000.

Average value of Colonial wool per bale, $80.

Estimated imports of Colonial wool into America and Europe, 1,303,000 bales.

Clip of Great Britain, 132,410,000 pounds.

1885.

FEBRUARY. Manufacturers suffering from competition of foreign goods.

APRIL. Improved demand for woolens, but margins small.

JUNE. Auction sales of flannels at heavy loss.

JULY. Money very easy. Improvement in general business.

AUGUST. Good demand for woolens and worsteds continuing into the winter.

NOVEMBER. Advance in iron and steel. Weather cold.

JANUARY. Depression in the woolen interests.

MARCH. Political disturbance affects business.

MAY. Expectation of war with Russia.

JUNE. Shipments from Bradford to the United States show decrease of over one million dollars.

SEPTEMBER. Machinery employed, but prices unremunerative.

DECEMBER. Business disturbed by general election in England, and trade suffering from falling off in demand for goods for United States.

America. 1885. *Europe.*

Importation of class 1 and 2 wools, 17,364,000 pounds.

Importation of manufactures of wool $36,176,000.

Clip of United States, 329,600,000 pounds.

Estimated population of Europe and North America, 376,000,000.

Average value per bale of Colonial wool, $70.

Estimated imports of Colonial wool into Europe and United States, 1,282,000 bales.

Clip of Great Britain, 136,130,000 pounds.

1886.

JANUARY. National Association of Wool Manufacturers moving to prevent undervaluation of foreign woolens.

FEBRUARY. Business interrupted by strikes ordered by the Knights of Labor.

MARCH. Morrison tariff bill proposed.

APRIL. Failures of woolen manufacturers.

MAY. Fierce competition of foreign yarns and goods; 3,000 hands out of employment, belonging to worsted mills in Rhode Island.

JUNE. Shipments of wool to Europe.

JULY. Riverside and other worsted goods open at old prices.

OCTOBER. Auction sales of flannels and cloakings in New York. Improvement in labor situation.

Importation of class 1 and 2 wools, 28,194,000 pounds.

Importation of manufactures of wool, $40,536,509.

Clip of United States, 322,305,000 pounds.

FEBRUARY. Political questions disturb trade.

MARCH. Restriction of consumption of wool on the Continent. Lowest values of merino wools.

APRIL. Extremely low prices excite speculation.

JUNE. Unusual demand for wools from France and Germany.

AUGUST. Large consumptive demand; apparent scarcity of fine wools.

OCTOBER. Quieter feeling; reaction from the "boom;" reported falling off of the clip of River Plate of 40,000,000 pounds of wool.

Estimated population of Europe and North America, 379,000,000.

Average value per bale of colonial wool, $67.

Estimated imports of colonial wool into Europe and North America, 1,432,000 bales.

Clip of Great Britain, 136,544,000 pounds.

1887.

JANUARY. Auction sales of woolen goods in New York.

MAY. Labor troubles; production of woolen goods curtailed. Importations of dress goods for eleven months, 74,500,000 square yards.

JUNE. Auction sales of flannels at fair prices.

JULY. Agitation to check the flood of importations of foreign goods.

SEPTEMBER. Stringency in money market and some small failures of manufacturers.

Importation of class 1 and 2 wools, 32,900,000 pounds.

Importation of manufactures of ool, $44,235,000.

Clip of United States, 333,500,000 pounds.

JANUARY. Better tone to trade.

MARCH. Diminished demand for yarns and political uncertainty.

APRIL. Light demand from America and the continent affects prices of goods.

MAY. Failures among manufacturers in Germany.

OCTOBER. Overproduction on the continent.

NOVEMBER. Failures in Yorkshire and the continent.

Estimated population of Europe and North America, 382,000,000.

Average value per bale of Colonial wool, $70.

Estimated imports of Colonial wool into Europe and North America, 1,444,000 pounds [bales].

Clip of Great Britain, 133,809,000 pounds.

1888.

FEBRUARY. Woolen goods open at reduced prices.

MARCH. Tariff agitation for lower duties in Congress.

JUNE. Depression in goods market; auction sales of flannels.

JULY. Passage of the Mills bill by the House.

APRIL. Revival of business on the continent.

JUNE. Continued improvement in consumption of wool, but margin of profits small.

JULY. Fears of higher tariff in America depressing trade in England and the continent.

America. 1888. *Europe.*

SEPTEMBER. Senate tariff bill proposed.
NOVEMBER. Presidential election.

SEPTEMBER. Failures in Yorkshire.
NOVEMBER. Improved demand for woolens.
DECEMBER. Fears of financial trouble to follow the failure of Panama Canal.

Importation of class 1 and 2 wools, 22,520,000 pounds.
Importation of manufactures of wool, $47,158,000.
Clip of United States, 322,000,000 pounds.

Estimated population of Europe and North America, 385,000,000.
Average value of Colonial wool per bale, $67.
Estimated imports of Colonial wool into Europe and North America, 1,604,000 bales.
Clip of Great Britain, 133,622,000 pounds.

1889.

JANUARY. Large importations of foreign worsteds and yarns; unseasonable weather.
MARCH. Continued heavy imports of manufactures of wool.
MAY. Worsted goods classed as woolen by Secretary of the Treasury.
JUNE. Woolen manufacturing unprofitable.
AUGUST. Failures of Riverside and other mills; credits questioned.
OCTOBER. Foreign wool reshipped to Europe.

FEBRUARY. Woolen business quiet in Europe.
APRIL. Manufacturing affected by the depressed condition of the American trade.
JUNE. Large consumption of wool; margins close; prospects of good harvests.
SEPTEMBER. Good crops and general prosperity in England.
DECEMBER. Reaction in prices.

Importation of class 1 and 2 wools, 29,624,000 pounds.
Importation of manufactures of wool, $52,681,000.
Clip of United States, 295,779,000 pounds.

Estimated population of Europe and North America, 387,000,000.
Value per bale of Colonial wool, $78.
Estimated imports of Colonial wool into Europe and North America, 1,695,000 bales.
Clip of Great Britain, 132,772,000, pounds.

1890.

JANUARY. Manufacturers unable to obtain any advance on woolens.
MARCH. Goods market unsatisfactory.
APRIL. Ruling of Treasury Department classifying worsteds as woolens set aside by circuit court in New York.
MAY. Heavy supply of foreign worsteds on the market.
JULY. Foreign goods rushed into the country before the McKinley administration bill takes effect.
OCTOBER. Passage McKinley tariff bill.
DECEMBER. Markets glutted with foreign goods and yarns.

JANUARY. Mills employed, but margins small.
FEBRUARY. Stringency in money market excites caution in business.
MARCH. Financial stringency and depreciation in values cause failures in wool trade.
JUNE. Contraction in American demand owing to uncertainty about tariff.
OCTOBER. Europe seeking other outlets than America for her surplus manufactures.

Importation of class 1 and 2 wools, 29,049,000 pounds.
Importation of manufactures of wool, $54,175,000.
Clip of United States, 309,500,000 pounds.

Estimated population of Europe and North America, 389,000,000.
Average value of Colonial wool per bale, $71.
Estimated imports of Colonial wool into Europe and North America, 1,941,886 bales.
Clip of Great Britain, 137,724,000 pounds.

NOTE.—In preparing the above summary I have relied largely upon the wool circulars of Helmuth Swartze & Co., Ronald & Son, and J. L. Bowes & Bro.; upon the Bradford Observer, the United States Treasury reports, and the figures of James Lynch and J. P. Truitt.

CHARLES F. AVERY.

APPENDIX L.

COST OF PRODUCTION OF TEXTILES IN UNITED STATES AND EUROPE.

DEPARTMENT OF LABOR,
Washington, D. C., February 16, 1892.

SIR: In accordance with your verbal request of a week ago, as conveyed by the clerk of your committee, I have the honor to hand you herewith a table taken from our forthcoming Seventh Annual Report relating to the cost of production of textiles. This table gives the cost of making a yard of the goods described therein. All the various details are shown in prior tables, but this one, denominated Table XII, contains the description of the product, shows the quality of the goods—that is, as to the number of yarn used—the width, weight, etc., and also the cost of a single yard, such cost being divided as to materials, labor, etc.

The difficulty you will find in using the table is that the cost per yard of a single article of goods of a particular description may not be comparable with any other, as, for instance, taking the first article named in the table, you will find that it is 39.75 inches wide, while the next article, which is the same kind of goods, is 41 inches wide, the first weighing 3.63 yards per pound, the second 3.91 yards. So there are differences in the number of yarn used for warp and weft, and differences in the number of threads of warp and picks of weft per inch. I call your attention to these points that you may use the table understandingly.

I am making an attempt to calculate the cost of woolen goods per pound rather than per yard. Should this calculation be successful—that is, result in a basis for fairly accurate comparison—I will send it to you.

The completed report comprises very many tables of details, but which would be of no particular advantage for your present use.

Trusting you will find some value in that herewith sent,

I am, very respectfully,

CARROLL D. WRIGHT,
Commissioner.

Hon. WM. M. SPRINGER,
Chairman Committee on Ways and Means, House of Representatives.

TABLE XII.—*The cost*

[Insurance, interest, depreciation of value of plant, and charges for

Number of—		Description of the product.										
							Numbers of yarn.				Per inch.	
							Warp.		Weft.			
Product.	Establishment.	Locality.	Name.	Year when produced.	Inches wide.	Yards per pound.	Wool.	Worsted.	Wool.	Worsted.	Threads of warp.	Picks of weft.
38	24	United States.	Cassimere....	1888–89	54.00	.94	a5.64	.....	4.00	.....	85	54
39	24	....do.....	....do	1888–89	54.00	.91	a6.03	.....	b4.29	.....	96	52
40	24	....do.....	....do	1888–89	54.00	.91	6.50	.....	4.00	.....	106	52
41	24	... do.....	....do	1888–89	54.00	.91	a5.45	.....	c4.13	.....	88	54
42	24	....do.....	....do	1888–89	54.00	.91	a6.04	.....	4.00	.....	96	54
43	24	....do.....	....do	1888–89	54.00	.91	3.75	.....	4.00	.....	62	52
44	24	....do.....	....do	1888–89	54.00	.89	3.75	.....	4.00	.....	62	54
45	24	....do.....	....do	1888–89	54.00	.89	3.75	.....	4.00	.....	60	54
46	24	....do.....	....do	1888–89	54.00	.89	3.75	.....	c4.15	.....	60	54
47	24	....do.....	....do	1888–89	54.00	.89	d3.76	.....	c4.03	.....	62	52
48	24	....do.....	....do	1888–89	54.00	.89	e4.13	.....	b4.12	.....	62	52
49	24	....do.....	... do	1888–89	54.00	.89	f7.12	.....	4.00	.....	106	54
50	28	....do.....	....do	1888	54.00	.89	5.00	.....	6.00	.....	60	60
51	32	... do.....	....do	1888	54.00	.89	9.25	.....	5.25	.....	70	76
52	25	....do.....	....do	1890	54.00	.80	4.00	.....	4.50	.....	80	52
53	21	....do.....	....do	1889–90	54.00	.73	3.50	.....	3.50	.....	80	56
54	22	....do.....	....do	1890	54.00	.73	(h)	.....	(h)	.....	33	28
55	22	....do.....	....do	1890	54.00	.73	2.25	.....	2.25	.....	39	38
56	34	... do.....	....do	1889	54.00	.73	3.75	.....	4.69	.....	56	56
57	8	....do.....	....do	1889–90	54.00	.68	3.75	.....	4.00	.....	54	56
58	24	....do.....	... do	1888–89	54.00	.67	j3.33	.....	5.00	.....	78	72
59	26	....do.....	....do	1890	54.00	.67	k3.75	.....	l3.75	.....	80	70
60	26	....do.....	....do	1890	54.00	.67	2.00	.....	2.00	.....	42	40
61	29	....do	....do	1889	54.00	.67	5.00	.....	6.00	.....	76	76
62	40	....do	....do	1888	54.00	.67	6.00	.....	4.00	.....	74	80
63	7	....do	....do	1888–89	54.00	.65	2.50	.....	3.00	.....	36	34
64	24	....do	....do	1888–89	54.00	.62	h3.35	.....	5.00	.....	80	74
65	24	....do	....do	1888–89	54.00	.62	h3.33	.....	5.00	.....	80	72
66	13	....do	....do.....	1890	54.50	1.07	3.50	.....	4.00	.....	47	36
67	13	....do	....do.....	1890	54.50	1.00	3.75	.....	(m)	.....	50	38
68	13	...do	... do.....	1890	54.50	.71	3.50	.....	(n)	.....	58	58
69	13	....do	....do.....	1890	54.50	.71	3.50	.....	4.50	.....	76	58
70	38	....do	....do.....	1890	55.00	1.10	3.00	.....	3.00	.....	38	36
71	36	... do	... do.....	1890	55.00	.67	3.75	.....	3.38	.....	66	60
72	42	Continent of Europe.	Checks	1890	38.60	4.36	.....	(q)	.....	(r)	(s)	(t)
73	31	Great Britain.	....do	1889	56.00	1.00	7.00	.....	7.00	.....	43	43
74	21	United States.	Cheviot.....	1889–90	54.00	1.14	5.75	x30.00	4.75	.....	68	54

a Average number, 3.75 and 6.50 having been used.
b Average number, 4.00 and 6.50 having been used.
c Average number, 4.00 and 5.00 having been used.
d Average Nos. 3.75 and 4.00 having been used.
e Average Nos. 3.75 and 10.00 having been used.
f Average Nos. 6.50 and 10.00 having been used.
g The expenditures for oil are inseparably combined with those for other supplies and repairs.
h Three-fourths of the yarn used were Nos. 2.75 and 5.00 twisted, and one-fourth No. 2.75.
i Exempt from taxes.
j Average Nos. 2.50 and 4.00 having been used.
k Average Nos. 3.00 and 4.50 having been used.
l Average Nos. 2.75 and 4.75 having been used.
m Nos. 5.50 and 7.50, twisted, were used.

of a yard—Continued.

freight of product to place of free delivery are not included.]

Description of the wool used.	Cost of a yard.									Number of product.
	Materials (net).	Labor.	Officials and clerks.	Supplies and repairs.			Water power.	Taxes.	Total.	
				Fuel and lighting.	Oil.	Other.				
	Dolls.	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	
Domestic, Ohio, Missouri, Texas	1.1729	.4561	.0315	.0375	.0136	.1131	.....	.0072	1.8319	38
.....do	1.0174	.4447	.0302	.0358	.0131	.1081	.....	.0068	1.6561	39
.....do	1.0033	.4496	.0305	.0363	.0132	.1094	.....	.0069	1.6492	40
.....do	1.1887	.4907	.0320	.0388	.0141	.1170	.....	.0074	1.8893	41
.....do	1.0090	.4403	.0292	.0346	.0126	.1045	.....	.0066	1.6368	42
.....do	1.0925	.4030	.0245	.0291	.0106	.0874	.....	.0054	1.6525	43
.....do	.9848	.3894	.0220	.0262	.0096	.0791	.....	.0050	1.5161	44
.....do	1.2252	.4055	.0222	.0266	.0096	.0797	.....	.0052	1.7740	45
.....do	1.2140	.4178	.0256	.0304	.0111	.0918	.....	.0058	1.7965	46
.....do	1.2225	.4130	.0236	.0281	.0102	.0846	.....	.0054	1.7874	47
.....do	1.1961	.4263	.0265	.0316	.0115	.0890	.....	.0060	1.7870	48
.....do	1.1784	.4916	.0356	.0423	.0154	.1275	.....	.0081	1.8989	49
Ohio, Pennsylvania, XX grade	1.0496	.4306	.0312	.0212	(g)	g.0569	.....	.0080	1.5975	50
.....	.9010	.4843	.0718	.0370	(g)	g.0658	.....	.0263	1.5862	51
New York State, Vermont	.9570	.3553	.0525	.0256	.0088	.0083	.....	.0021	1.4096	52
Domestic; Montevideo; Kansas; Texas; Territory; XX, fine Chicago, and extra Chicago pulled; fine, X, Territory, and Thacher scoured; Georgia; Bagdad.	1.1212	.3746	.0394	.0202	.0041	.0498	.....	.0101	1.6194	53
Domestic, Georgia, Bagdad, and pulled.	.6630	.2839	.0038	.0059	.0045	.0307	.....	.0030	.9948	54
.....do	.7538	.2780	.0048	.0075	.0057	.0389	.....	.0038	1.0925	55
.....	.8946	.2649	.0499	.0066	(g)	g.1144	.....	.0063	1.3367	56
Scoured Territory	.5262	.3101	.0315	.0195	.0054	.1012	.....	(i)	.9939	57
Domestic, Ohio, Missouri, Texas	1.6748	.6046	.0107	.0484	.0176	.1460	.....	.0093	2.5414	58
Domestic, Ohio, Pennsylvania, Missouri, Texas.	1.4426	.5458	.0831	.0262	.0101	.0587	.....	.0033	2.1698	59
.....do	1.1592	.2996	.0475	.0149	.0058	.0333	.....	.0019	1.5622	60
Ohio, Pennsylvania, XX grade	1.3684	.5362	.0384	.0337	(g)	g.0756	.....	.0098	2.0621	61
.....	1.4238	.4950	.0306	.0444	(g)	g.0375	.....	.0091	2.0404	62
Australian, Territory, California, State of Maine.	.7054	.1941	.0155	.0114	.0017	.0515	.....	.0012	.9808	63
Domestic, Ohio, Missouri, Texas	1.5050	.5804	.0366	.0434	.0158	.1310	.....	.0083	2.3205	64
.....do	1.6470	.5937	.0397	.0472	.0172	.1424	.....	.0096	2.4968	65
Domestic, Texas, California, Montevideo, Territory.	.7399	.2925	.0274	.0147	.0044	.0404	.....	.0112	1.1305	66
.....do	.8784	.3012	.0288	.0156	.0045	.0425	.....	.0118	1.2828	67
.....do	1.2352	.4356	.0441	.0238	.0070	.0650	.....	.0181	1.8288	68
.....do	1.1526	.4354	.0441	.0238	.0070	.0650	.....	.0181	1.7460	69
.....	.7874	.2229	.0120	.0060	(g)	g.0072	.....	.0020	1.0375	70
.....	.8600	.3751	o.0450	.0300	.0350	.0200	.....	.0025	p1.3676	71
.....	.1302	u.0333	.0017	.0014	(g)	g.0065	.....	.0004	v.1735	72
Cheviot, X bred Colonial, Colonnial, including Sydney, Port Phillip and Capes.	.7300	.3942	.0198	.0117	.0081	.0095	.....	.0036	w1.1769	73
Domestic, Montevideo, Kansas, Texas, Territory, XX, fine Chicago and extra Chicago, pulled, fine, X, Territory, and Thacher scoured Georgia, Bagdad.	.8959	.2787	.0380	.0184	.0039	.0481	.....	.0098	1.2928	74

a Nos. 5.50 and 7.50, twisted, were used for face, and number 2.50 for back.
o The expenditures for unspecified general expenses are inseparably combined with those for officials and clerks.
p Including unspecified general expenses.
q Worsted, No. 75.00; dyed worsted, 60.00, and cotton, 46.00.
r Worsted, No. 90.00; dyed worsted, 80.00, and cotton, 46.00.
s Worsted, 56; dyed worsted, 12, and cotton, 6.
t Worsted, 50; dyed worsted, 12, and cotton, 6.
u Not including finishing.
v In addition $0.0235 was paid another establishment for dyeing and finishing.
w In addition $0.0451 was paid another establishment for dyeing.
x Two-ply.

TABLE XII.—*The cost*

[Insurance, interest, depreciation of value of plant, and charges for

Number of—		Description of the product.										
							Numbers of yarn.				Per inch.	
							Warp.		Weft.			
Product.	Establishment.	Locality.	Name.	Year when produced.	Inches wide.	Yards per pound.	Wool.	Worsted.	Wool.	Worsted.	Threads of warp.	Picks of weft.
75	7	United States	Cheviot	1888-89	54.00	1.10	2.75	.....	3.25	.....	32	32
76	21	....do	....do	1889-90	54.00	1.07	2.00	.....	2.00	.....	25	21
77	21	....do	....do	1889-90	54.00	1.07	3.50	.....	4.25	.....	48	40
78	22	....do	....do	1890	54.00	1.07	2.75	.....	2.75	.....	38	30
79	22	....do	....do	1891	54.00	1.07	3.50	.....	4.50	.....	48	40
80	22	....do	....do	1890	54.00	1.03	4.50	.....	4.75	.....	52	40
81	34	....do	....do	1889	54.00	1.00	2.81	.....	2.81	.....	32	32
82	21	....do	....do	1889-90	54.00	.73	1.25	.....	1.50	.....	27	32
83	21	....do	....do	1889-90	54.00	.73	3.50	.....	3.50	.....	60	72
84	22	....do	....do	1890	54.00	.73	2.75	.....	2.75	.....	49	30
85	34	....do	....do	1889	54.00	.73	2.81	.....	2.81	.....	24	24
86	23	....do	....do	1891	54.90	.70	1.13	.....	1.50	.....	33	31
87	13	....do	....do	1890	54.50	1.15	3.00	.....	3.00	.....	40	34
88	13	....do	....do	1890	54.50	.70	1.75	.....	1.75	.....	40	32
89	13	....do	....do	1890	54.50	.70	1.75	.....	1.75	.....	40	30
90	7	....do	Cloaking	1888-89	54.00	.57	4.25	.....	4.75	.....	56	64
91	16	....do	Coating, sky-blue.	1889-90	54.00	.73	3.63	.....	4.13	.....	64	67
92	42	Continent of Europe.	Diagonal cloth	1890	43.33	3.52	.....	70.00	.....	120.00	96	88
93	16	United States	Doeskin, blue	1889-90	54.90	.57	4.75	.....	4.00	.....	98	72
94	37	....do	Fancy shirting	1889	32.00	6.04	*40.00	.....	70.00	.....	72	90
95	37	....do	....do	1889	36.00	5.17	(f)	.....	42.00	.....	64	63
96	14	....do	Flannel	1889	22.00	6.81	5.25	.....	7.25	.....	33	30
97	14	....do	....do	1889	24.00	5.82	5.25	.....	7.25	.....	34	30
98	14	....do	....do	1889	25.00	5.33	5.25	.....	7.25	.....	38	32
99	1	....do	....do	1888-89	26.00	3.88	4.25	.....	5.50	.....	39½	33
100	2	....do	....do	1889-90	26.00	3.82	4.25	.....	5.50	.....	39½	33
101	14	....do	....do	1889	27.00	4.92	5.25	.....	7.25	.....	38	36
102	8	....do	Flannel shirting.	1889-90	26.00	2.91	3.25	.....	3.50	.....	23	23
103	15	....do	Flannel, twilled	1889	25.50	4.00	5.00	.....	8.00	.....	47	38
104	15	....do	....do	1889	26.50	3.56	5.00	.....	7.00	.....	50	40
105	14	....do	....do	1889	27.00	3.86	5.25	.....	7.25	.....	48	34
106	14	....do	....do	1889	27.00	3.56	5.25	.....	7.25	.....	49	40
107	16	....do	Kersey	1889-90	54.00	.57	4.50	.....	5.00	.....	89	79
108	12	....do	Ladies' dress goods.	1888	36.00	4.23	6.00	.....	5.75	.....	32	35
109	3	....do	....do	1889	36.00	3.77	5.50	.....	6.50	.....	36	32
110	5	....do	....do	1888-89	36.00	3.56	h5.50	.....	6.25	.....	34	34
111	10	....do	....do	1889	36.00	3.55	5.00	.....	6.00	.....	40	36
112	42	Continent of Europe.	....do	1890	39.75	4.47	.....	(i)	.....	80.00	(j)	56
113	42	....do	....do	1890	39.75	4.05	.....	70.00	.....	100.00	74	92
114	6	United States	....do	1889	50.00	2.91	h5.50	.....	6.30	.....	38	36

a Rent for water power, and taxes not paid by lessees of mill.
b The expenditures for oil are inseparably combined with those for other supplies and repairs.
c Not including finishing.
d In addition $0.0252 was paid another establishment for dyeing and finishing.
e Colored cotton yarn.
f No. 40.00 colored cotton yarn and No. 60.00 spun silk.

of a yard—Continued.

freight of product to place of free delivery are not included.]

Description of the wool used.	Cost of a yard.									Number of product.
	Materials (net).	Labor.	Officials and clerks.	Supplies and repairs.			Water power.	Taxes.	Total.	
				Fuel and lighting.	Oil.	Other.				
	Dolls.	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	
Australian, Territory, California, State of Maine.	.4237	.1538	.0146	.0107	.0016	.0484	.....	.0012	.6540	75
The same as in product No. 74	.5405	.2058	.0148	.0076	.0015	.0187	.....	.0038	.7927	76
do	.7670	.2643	.0262	.0144	.0029	.0356	.....	.0072	1.1196	77
Domestic, Georgia, Bagdad, and pulled.	.5195	.1971	.0038	.0059	.0045	.0307	.....	.0030	.7645	78
Domestic, Georgia, Texas, Bagdad, pulled and scoured.	.6456	.2688	0112	.0172	.0038	.0513	(a)	(a)	.9929	79
Domestic, Georgia, Bagdad, and pulled.	.5888	.2202	.0051	.0079	.0060	.0469	.....	.0040	.8729	80
	.5070	.1882	.0488	.0034	(b)	b.0796	.....	.0023	.8313	81
The same as in product No. 74.	.6377	.2891	.0223	.0115	0023	.0285	.....	.0058	.9972	82
do	.9036	.4311	.0507	.0259	.0053	.0641	.....	.0130	1.4937	83
Domestic, Georgia, Bagdad, and pulled.	.7430	.2632	.0038	.0059	.0045	.0307	.....	.0030	1.0541	84
	.6076	.2071	.0414	.0066	(b)	b.0767	.....	.0030	.9424	85
Domestic, Georgia, Texas, Bagdad, pulled and scoured.	.6539	.3182	.0067	.0134	.0029	.0397	(a)	(a)	1.0868	86
Domestic, Texas, California, Montevideo, Territory.	.5815	.2583	.0259	.0139	.0041	.0381	.....	.0106	.9324	87
do	.7795	.3413	.0243	.0131	.0039	.0359	.....	.0100	1.2080	88
do	.5737	.3356	.0228	.0123	.0037	.0337	.....	.0093	.9011	89
Australian, Territory, California, State of Maine.	.7556	.3102	.0291	.0214	.0033	.0959	.....	.0023	1.2178	90
Ohio, Pennsylvania, Michigan, California, Territory, foreign.	1.0400	.3912	.0114	.0281	.0282	.0318	.....	.0136	1.5443	91
	.1528	c.0557	.0021	.0019	(b)	b.0092	.....	.0005	d.2222	92
Ohio, Pennsylvania, Michigan, California, Territory, foreign.	1.6360	.4642	.0145	.0357	.0359	.0404	.....	.0173	2.2440	93
	.1474	.0763	.0038	.0020	(b)	b.0016	.....	.0024	.2335	94
	.1984	.0583	.0028	.0014	(b)	b.0012	.....	.0017	.2638	95
Domestic fleece and fall Texas	.1124	.0205	.0027	.0020	.0010	.0031	.....	.0010	.1427	96
do	.1315	.0241	.0031	.0024	.0012	.0036	.....	.0011	.1670	97
do	.1435	.0262	.0034	.0026	.0013	.0040	.....	.0012	.1822	98
Territory fleece, Eastern, pulled wool, Eastern and Western	.1364	.0292	.0039	.0019	.0012	.0065	.....	.0011	.1802	99
Territory fleece and Eastern	.1272	.0268	.0027	.0020	.0007	.0050	.....	.0010	.1649	100
Domestic fleece and fall Texas	.1554	.0284	.0037	.0028	.0014	.0043	.....	.0014	.1974	101
Scoured Territory	.0846	.0563	.0064	.0040	.0011	.0206	.....	(g)	.1730	102
Domestic fleece, Texas, Territory.	.1930	.0281	.0045	.0027	.0014	.0108	.....	.0015	.2450	103
do	.2018	.0296	.0047	.0029	.0015	.0114	.....	.0015	.2534	104
Domestic fleece and fall Texas	.1985	.0363	.0047	.0036	.0017	.0055	.....	.0017	.2520	105
do	.2152	.0394	.0051	.0039	.0019	.0059	.....	.0019	.2733	106
Ohio, Pennsylvania, Michigan, California, Territory, foreign.	1.5960	.4521	.0145	.0357	.0359	.0404	.....	.0173	2.1919	107
Domestic X grade (Ohio, Pennsylvania, California, Oregon, Territory.)	.1818	.0668	.0073	.0062	.0023	.0170	.....	.0024	.2838	108
Territory and other wool in grease, pulled, scoured, washed and unwashed wools.	.2120	.0622	.0061	.0045	.0015	.0106	.0020	.0015	.3004	109
Scoured Texas twelve months.	.1950	.0400	.0024	.0020	.0012	.0240	.....	(g)	.2655	110
Scoured wool and wool in grease.	.2119	.0548	.0109	.0043	.0012	.0247	.....	(g)	.3078	111
	.1515	c.0397	.0034	.0021	(b)	b.0089	.....	.0006	k.2062	112
	.1225	e.0559	.0018	.0016	(b)	b.0075	.....	.0004	d.1907	113
Indiana fleece and Oregon pulled	.1624	.0625	.0069	.0079	.0011	.0133	.0012	.0004	.2557	114

g Exempt from taxes.
h In connection with the above, No. 28.00 cotton yarn was also used.
i Worsted, No. 70.00, and spun silk, 140.00.
j Worsted 70 and spun silk 14.
k In addition $0.0419 was paid another establishment for dyeing and finishing.

TABLE XII.—The

[Insurance, interest, depreciation of value of plant, and charges for

Number of		Description of the product.										
							Numbers of yarn.				Per inch.	
							Warp.		Weft.			
Product.	Establishment.	Locality.	Name.	Year when produced.	Inches wide.	Yards per pound.	Wool.	Worsted.	Wool.	Worsted.	Threads of warp.	Picks of weft.
115	9	United States	Ladies' dress goods.	1889	50.00	2.56	a5.25	.....	6.25	.....	32	40
116	46	Great Britain	....do	1889	54.00	1.33	(b)	(b)	(b)	(b)	(b)	(b)
117	11	United States	....do	1889	54.00	1.00	5.00	.....	5.00	.....	80	72
118	43	Great Britain	....do	1890	56.00	2.30	5.23	.....	6.13	.....	(b)	44
119	43	....do	....do	1890	56.00	1.09	3.96	.....	4.14	.....	(b)	36
120	17	United States	Melton.....	1889-90	27.00	1.52	2.06	.....	2.25	.....	40	50
121	42	Continent of Europe.	Merino	1890	46.90	3.04	.....	70.00	.....	120.00	62	162
122	42	....do.....	....do.....	1890	47.25	2.76	.....	70.00	.....	125.00	64	192
123	42	....do.....	....do.....	1890	47.67	2.54	.....	70.00	.....	130.00	64	222
124	42	....do	....do.....	1890	47.67	2.42	.....	70.09	.....	140.00	64	254
125	42	....do.....	....do	1890	52.00	2.07	.....	70.00	.....	140.00	64	282
126	42	....do.....	Muslin	1890	37.40	5.80	.....	75.00	.....	110.00	64	70
127	42	....do.....	....do.....	1890	37.80	6.53	.....	80.00	.....	100.00	58	56
128	42	....do.....	....do.....	1890	39.00	5.98	.....	(h)	.....	(i)	(j)	(k)
129	42	....do.....	....do.....	1890	39.40	5.59	.....	(l)	.....	120.00	(m)	74
130	42	....do.....	....do.....	1890	42.13	5.87	.....	80.00	.....	100.00	58	56
131	42	....do	....do.....	1890	42.13	5.09	.....	75.00	.....	100.00	60	70
132	42	....do.....	....do.....	1890	42.13	4.47	.....	75.00	.....	140.00	72	100
133	42	....do.....	....do.....	1890	42.13	4.41	.....	75.00	.....	110.00	78	76
134	42	....do.....	Muslin	1890	42.50	4.28	.....	80.00	.....	170.00	74	136
135	42	....do.....	Nun's cloth...	1890	38.60	7.35	.....	80.00	.....	100.00	52	48
136	42	....do.....	Nun's veiling.	1890	38.20	5.78	.....	(n)	.....	120.00	(o)	74
137	42	....do.....	....do	1890	39.00	5.41	.....	(p)	.....	100.00	(q)	62
138	42	....do.....	....do	1890	39.40	5.42	.....	(n)	.....	100.00	(r)	62
139	21	United States	Overcoating ..	1889-90	54.00	1.07	8.00	.....	7.50	.....	70	56
140	7	....do.....	....do	1888-89	54.00	.57	4.25	.....	4.75	.....	60	58
141	24	....do.....	....do	1888-89	54.00	.50	s3.75	.....	t3.33	.....	122	58
142	24	....do.....	....do	1888-89	54.00	.50	s3.75	.....	4.00	.....	126	76
143	21	....do.....	Overcoating, kersey.	1889-90	54.00	1.00	4.50	.....	7.00	.....	62	52
144	21	....do.....	... do	1889-90	54.00	.59	(u)	.....	4.50	.....	85	66
145	22	....do.....	... do	1890	54.00	.59	4.50	.....	4.50	.....	85	68
146	21	....do.....	Overcoating, melton.	1889-90	54.00	1.14	4.50	.....	7.00	.....	53	52
147	22	....do.....	....do	1890	54.00	1.14	4.00	.....	6.00	.....	53	44
148	23	....do.....	....do	1891	54.00	1.14	4.00	.....	6.00	.....	48	44
149	22	....do.....	....do	1890	54.00	.70	3.25	.....	4.50	.....	62	52
150	22	....do.....	....do	1890	54.00	.70	2.75	.....	2.75	.....	48	44
151	23	....do.....	....do	1891	54.00	.70	3.50	.....	4.50	.....	64	68
152	21	....do.....	....do	1889-90	54.00	.66	3.50	.....	4.50	.....	67	68

a In connection with the above, No. 28.00 cotton yarn was also used.
b Not reported.
c The expenditures for fuel and lighting, power, and machinery are inseparably combined with those for other supplies and repairs.
d In addition the following amounts were paid another establishment for dyeing: Product No. 118, $0.0596; No. 119, $0.1089.
e Not including finishing.
f The expenditures for oil are inseparably combined with those for other supplies and repairs.
g In addition, the following amounts were paid another establishment for dyeing and finishing; Product Nos. 121, 122, 123, and 124, $0.0193; No 125, $0.0201; Nos 126, 127, 130, 131, 132, 133, 134, and 135, $0.0168; Nos. 128 and 129, $0.0184; Nos. 136, 137, and 138, $0.0253.

cost of a yard—Continued.

freight of product to place or free delivery are not included.]

Description of the wool used.	Cost of a yard.									Number of product.
	Materials (net).	Labor.	Officials and clerks.	Supplies and repairs.			Water power.	Taxes.	Total.	
				Fuel and lighting.	Oil.	Other.				
	Dolls.	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	
Scoured Texas and Territory (clean).	.2079	.0699	.0080	.0060	.0017	.0094	.....	.0019	.3048	115
.....	.5130	.0986	.0016	(c)	.0099	c. 1321	.....	.0022	.7574	116
Australian and American fleece	.7908	.2077	.0077	.0116	.0058	.0176	.0161	.0043	1.0616	117
.....	.2391	.1046	.0011	.0040	.0032	.0384	.....	.0013	d 3917	118
.....	.4182	.1716	.0016	.0064	.0171	.0515	.....	.0021	d. 6985	119
Scoured domestic	.2401	.0794	.0098	.0092	.0047	.0150	.0101	.0019	.3702	120
.....	.1778	e.0418	.0022	.0019	(f)	f. 0085	.....	.0006	g. 2328	121
.....	.2030	e.0188	.0025	.0022	(f)	f. 0094	.....	.0006	g. 2665	122
.....	.2299	e.0600	.0029	.0026	(f)	f. 0104	.....	.0007	g. 3065	123
.....	.2528	e.0682	.0032	.0028	(f)	f. 0112	.....	.0008	g. 3390	124
.....	.3004	e.0774	.0038	.0033	(f)	f. 0129	.....	.0009	g. 3987	125
.....	.0899	e.0311	.0006	.0005	(f)	f. 0037	.....	.0002	g. 1260	126
.....	.0774	e.0197	.0005	.0004	(f)	f. 0031	.....	.0001	g. 1012	127
.....	.0851	e.0448	.0007	.0006	(f)	f. 0051	.....	.0002	g. 1365	128
.....	.0973	e.0326	.0013	.0012	(f)	f. 0052	.....	.0003	g. 1379	129
.....	.0994	e.0251	.0006	.0005	(f)	f. 0037	.....	.0002	g. 1295	130
.....	.1161	e.0323	.0007	.0007	(f)	f. 0042	.....	.0002	g. 1542	131
.....	.1555	e.0558	.0011	.0009	(f)	f. 0055	.....	.0003	g. 2191	132
.....	.1403	e.0519	.0010	.0008	(f)	f. 0055	.....	.0002	g. 1997	133
.....	.2190	e. 0628	.0028	.0025	(f)	f. 0099	.....	.0007	g. 2977	134
.....	.0687	e. 0191	.0004	.0004	(f)	f. 0029	.....	.0001	g. 0916	135
.....	.0922	e. 0320	.0013	.0011	(f)	f. 0051	.....	.0003	g. 1320	136
.....	.0961	e. 0364	.0013	.0012	(f)	f. 0057	.....	.0003	g. 1410	137
.....	.0940	e. 0394	.0013	.0012	(f)	f. 0056	.....	.0003	g. 1418	138
Domestic; Montevidio, Kansas, Texas, Territory, XX, fine Chicago, and extra. Chicago pulled, fine, X, Territory and Thacher scoured; Georgia, Bagdad.	1.1693	.3238	.0394	.0202	.0041	.0498	.....	.0101	1.6167	139
Australian, Territory, California, State of Maine.	.7524	.2981	.0264	.0194	.0030	.0878	.....	.0021	1.1892	140
(Domestic) Ohio, Missouri, and Texas.	1.9081	.6406	.0395	.0469	.0171	.0415	.....	.0090	2.8027	141
.....do	1.9940	.7003	.0445	.0529	.0192	.1594	.....	.0101	2.9804	142
The same as in product No. 139	1.2312	.3209	.0366	.0187	.0038	.0463	.....	.0094	1.6669	143
.....do.....	1.3712	.4536	.0465	.0238	.0048	.0587	.....	.0120	1.9706	144
Domestic, Georgia, Bagdad, and pulled.	1.1641	.3807	.0086	.0134	.0101	.0696	.....	.0067	1.6532	145
The same as in product No. 139.	.8363	.3002	.0366	.0187	.0038	.0463	.....	.0094	1.2513	146
Domestic, Georgia, Bagdad, and pulled.	.8864	.2135	.0056	.0087	.0066	.0450	.....	.0044	1.1702	147
Domestic, Georgia, Texas, Bagdad, pulled and scoured.	.8552	.2654	.0123	.0190	.0041	.0564	(v)	(v)	1.2124	148
Domestic, Georgia, Bagdad, and pulled.	1.5248	.3133	.0066	.0102	.0078	.0532	.....	.0051	1.9210	149
.....do.....	.8841	.2985	.0056	.0087	.0066	.0450	.....	.0044	1.2529	150
Domestic, Georgia, Texas, Bagdad, pulled, and scoured.	1.1528	.4237	.0194	.0432	.0094	.0872	(v)	(v)	1.7357	151
Domestic; Montevideo; Kansas; Texas; Territory; XX, fine Chicago; and extra Chicago pulled; fine, X, Territory, and Thacher scoured: Georgia; Bagdad.	1.2424	.4383	.0479	.0245	.0050	.0605	.....	.0123	1.8309	152

h Worsted, No. 80.00; and cotton, 60.00, two-ply.
i Worsted, No. 100.00; and cotton, 60.00, two-ply.
j Worsted, 56; and cotton, 8.
k Worsted, 48; cotton, 8.
l Worsted, No. 75.00, and cotton, 60.00, two-ply.
m Worsted, 46; and cotton, 18.
n Worsted, No. 75 00; and cotton, 60.00.
o Worsted, 50; and cotton, 14.
p Worsted, No. 75.00; cotton, for border, 60.00; and cotton and worsted mixed, 72.00.
q Worsted, 58; and cotton and worsted mixed, 8.
r Worsted, 58; and cotton, 8.
s Average Nos. 2.50 and 5.00 having been used.
t Average Nos. 2.50 and 4.00 having been used.
u No. 3.50 was used for face and 3.25 for back.
v Rent for water power, and taxes not paid by lessees of the mill.

TABLE XII.—*The*

[Insurance, interest, depreciation of value of plant, and charges for

Number of—		Description of the product.										
							Numbers of yarn.				Per inch.	
							Warp.		Weft.			
Product.	Establishment.	Locality.	Name.	Year when produced.	Inches wide.	Yards per pound.	Wool.	Worsted.	Wool.	Worsted.	Threads of warp.	Picks of weft.
153	41	United States.	Piccadilly	1891	56.00	.62	4.00	.....	(a)	.....	86	66
154	36	....do.....	Plain black cloth.	1891	54.00	.94	2.63	.....	3.00	.....	35	40
155	36	....do.....	... do	1891	54.00	.84	2.25	.....	2.63	.....	40	40
156	36	... do	... do	1891	54.00	.73	2.63	.....	2.63	.....	36	40
157	4	... do.....	Repellents ..	1889	54.00	1.60	b28.00	.....	2.25	.....	55	28
158	42	Continent of Europe.	Serge.....	1890	40.50	3.84	.....	70.00	.....	105.00	96	74
159	42	....do.....	....do	1890	40.90	3.51	.....	70.00	.....	(f)	98	84
160	42	....do.....	... do	1890	41.33	3.23	.....	64.00	.....	90.00	98	82
161	42	.. do.....	... do	1890	43.33	3.02	.....	70.00	.....	110.00	100	114
162	42	....do.....	....do	1890	48.00	3.26	.....	70.00	.....	105.00	96	74
163	42	....do.....	....do	1890	48.40	2.97	.....	70.00	.....	100.00	98	84
164	42	....do.....	... do	1890	48.80	2.74	.....	64.00	.....	90.00	98	82
165	42	....do.....	....do	1890	48.80	2.70	.....	70.00	.....	110.00	100	114
166	42	....do.....	... do	1890	52.75	2.50	.....	70.00	.....	110.00	98	114
167	27	United States	... do	1890	54.00	1.19	5.00	.....	5.50	.....	52	48
168	14	....do.....	Suiting	1889	27.00	3.76	5.25	.....	7.25	.....	49	36
169	16	....do.....	....do	1889-90	54.00	1.07	5.13	.....	7.13	.....	55	72
170	7	....do.....	... do	1888-9	54.00	.71	5.00	.....	6.00	.....	60	54
171	7	....do.....	....do	1888-9	54.00	.67	4.50	.....	5.00	.....	60	58
172	7	...do.....	....do	1888-9	54.00	.67	5.00	.....	6.00	.....	70	68
173	16	....do.....	Tweed	1889-90	54.00	1.07	4.25	.....	6.75	.....	60	56
174	31	Great Britain.	....do	1889	56.00	1.31	4.75	.....	4.75	.....	32	32
175	35	United States.	Worsted goods.	1889	28.00	2.45	.....	h36.00	.....	32.00	80	80
176	35	....do.....	....do	1889	28.00	2.26	.....	h36.00	.....	15.00	64	60
177	35	....do.....	... do	1889	32.00	5.44	.....	b50.00	.....	42.00	71	64
178	35	....do..... ..	.. do	1889	34.50	5.25	.....	b50.00	.....	44.00	71	64
179	42	Continent of Europe.	... do	1890	37.00	4.71	.....	(i)	.....	90.00	(f)	66
180	42	....do.....	....do	1890	38.60	4.55	.....	(f)	.....	90.00	(h)	66
181	35	United States	....do	1889	45.00	4.38	.....	b50.00	.....	70.00	82	100
182	30	....do	.. do	1888	54.00	1.33	.....	h40.00	.....	h40.00	60	64
183	24	.. do.....	....do	1888-9	54.00	1.10	.....	h40.00	.....	h40.00	100	80
184	24	....do.....	....do	1888-9	54.00	1.00	.....	h40.00	n 6.00	.....	71	66
185	24	....do.....	.. do	1888-9	54.00	1.00	.....	h40.00	n 5.90	.....	98	54
186	24	... do.....	....do	1888-9	54.00	1.00	.....	h40.00	5.00	.....	98	70
187	30	....do.....	....do	1888	54.00	1.00	.....	h40.00	.....	h40.00	70	74
188	24	....do	.. do	1888-9	54.00	.94	.....	h40.00	5.00	.....	98	66
189	24	....do.....	....do	1888-9	54.00	.94	.....	h40.00	5.00	.....	98	64
190	33	....do.....	....do	1889	54.00	.92	.....	h40.00	.....	h40.00	74	80
191	24	....do.....	....do	1888-9	54.00	.91	.....	h40.00	n 5.90	.....	98	58
192	24	.. do.....	....do	1888-9	54.00	.89	.....	h40.00	o 4.60	.....	65	64
193	39	....do.....	....do	1888	54.00	.88	.....	h40.00	.....	h40.00	70	74
194	26	....do.....	... do	1891	54.00	.73	p 3.50	q40.00	p 7.00	q40.00	113	96
195	23	....do.....	....do	1891	54.00	.73	.....	h40.00	.....	h40.00	123	86
196	21	....do.....	...do	1889-90	54.00	.70	p 5.75	q40.00	.....	h40.00	133	80

a Nos. 1.50 and 4.50 were used.
b Cotton yarn.
c Not including finishing.
d The expenditures for oil are inseparably combined with those for other supplies and repairs.
e In addition the following amounts were paid another establishment for dyeing and finishing: Product numbers 158, 159, and 179, $0.0216; numbers 160 and 180, $0.0235; number 161, $0.0252; numbers 162 and 163, $0.0312; numbers 164 and 165, $0.0319; number 166, $0.0335.
f Nos. 100.00 and 120.00 were used.
g In addition, $0.0740 was paid another establishment for dyeing.

cost of a yard—Continued.

freight of product to place of free delivery are not included.]

Description of the wool used.	Cost of a yard.									Number of product.
	Materials (net).	Labor.	Officials and clerks.	Supplies and repairs			Water power.	Taxes.	Total.	
				Fuel and lighting	Oil.	Other.				
	Dolls.	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	
.....	.9310	.5369	.0406	.0405	.0130	.0710	.....	.0250	1.6600	153
.....	.5126	.1814	.0120	.0164	.0086	.0624	.....	.0022	.7956	154
.....	.5729	.1954	.0134	.0184	.0096	.0697	.....	.0025	.8819	155
.....	.6633	.2164	.0155	.0218	.0111	.0807	.....	.0029	1.0112	156
Territory No. 1, clean and other.	.1953	.0616	.0124	.0086	.0023	.0045	.0009	.0020	.2906	157
.....	.1356	*c*.0256	.0016	.0014	(*d*)	*d*.0077	.....	.0004	*e*.1729	158
.....	.1555	*c*.0280	.0018	.0016	(*d*)	*d*.0084	.....	.0005	*e*.1958	159
.....	.1592	*c*.0281	.0019	.0017	(*d*)	*d*.0087	.....	.0005	*e*.2001	160
.....	.1816	*c*.0413	.0022	.0020	(*d*)	*d*.0096	.....	.0006	*e*.2373	161
.....	.1598	*c*.0280	.0019	.0017	(*d*)	*d*.0089	.....	.0005	*e*.2008	162
.....	.1835	*c*.0325	.0022	.0019	(*d*)	*d*.0098	.....	.0006	*e*.2305	163
.....	.1877	*c*.0321	.0022	.0020	(*d*)	*d*.0102	.....	.0005	*e*.2347	164
.....	.2038	*c*.0452	.0025	.0022	(*d*)	*d*.0107	.....	.0006	*e*.2650	165
.....	.2191	*c*.0500	.0027	.0024	(*d*)	*d*.0115	.....	.0007	*e*.2864	166
Domestic in grease	.5828	.2232	.0155	.0142	.0029	.0135	.....	.0037	.8558	167
Domestic fleece and fall Texas	.2033	.0372	.0048	.0036	.0018	.0056	.....	.0018	.2581	168
Ohio, Pennsylvania, Michigan, California, Territory, foreign.	.9948	.4042	.0078	.0191	.0192	.0217	.....	.0093	1.4761	169
Australian, Territory, California, State of Maine.	.6596	.2706	.0246	.0180	.0028	.0817	.....	.0020	1.0593	170
do	.7042	.2841	.0264	.0194	.0030	.0878	.....	.0021	1.1270	171
do	.7095	.3220	.0309	.0227	.0035	.1029	.....	.0024	1.1939	172
Ohio, Pennsylvania, Michigan, California, Territory, foreign.	.8100	.3644	.0078	.0191	.0192	.0217	.....	.0093	1.2515	173
Cheviot, x-bred colonial, colonial including Sydney, Port Phillip, and capes.	.5886	.3164	.0144	.0084	.0055	.0063	.....	.0025	*g*.8921	174
.....	.2072	.1475	.0057	.0041	(*d*)	*d*.0280	.....	.0051	.3926	175
.....	.2251	.0975	.0048	.0052	(*d*)	*d*.0215	.....	.0047	.3568	176
.....	.0887	.0393	.0039	.0040	(*d*)	*d*.0154	.....	.0034	.1547	177
.....	.0921	.0440	.0037	.0041	(*d*)	*d*.0159	.....	.0035	.1633	178
.....	.1135	*e*.0385	.0008	.0007	(*d*)	*d*.0048	.....	.0002	*e*.1585	179
.....	.1185	*e*.0378	.0016	.0013	(*d*)	*d*.0059	.....	.0004	*e*.1554	180
.....	.1912	.0441	(*l*)	.0049	(*d*)	*d*.0188	.....	.0011	*m*.2631	181
.....	.9400	.2015	.0208	.0185	(*d*)	*d*.0094	.....	.0010	1.1862	182
(Domestic) Ohio, Missouri, and Texas.	1.6010	.3687	.0185	.0221	(*d*)	*d*.0636	.....	.0042	2.0781	183
do	1.3439	.4346	.0275	.0327	.0094	.0974	.....	.0063	1.9518	184
do	1.3719	.4128	.0258	.0307	.0077	.0906	.....	.0059	1.9454	185
do	1.5722	.4391	.0240	.0473	.0069	.0843	.....	.0055	2.1793	186
.....	1.3800	.2383	.0208	.0138	(*d*)	*d*.0115	.....	.0010	1.6654	187
(Domestic) Ohio, Missouri, and Texas.	1.4056	.4160	.0234	.0278	.0066	.0821	.....	.0054	1.9669	188
do	1.2154	.3895	.0219	.0260	.0061	.0767	.....	.0050	1.7406	189
.....	1.5150	.3500	.0500	.0300	(*d*)	*d*.0510	.....	.0100	2.0060	190
(Domestic) Ohio, Missouri, and Texas.	1.4445	.4531	.0279	.0332	.0086	.0982	.....	.0064	2.0719	191
do	1.4427	.4289	.0242	.0288	.0081	.0857	.....	.0056	2.0240	192
.....	1.3300	.2700	.0200	.0136	(*d*)	*d*.0250	.....	.0070	1.6716	193
Domestic, Georgia, Texas, Bagdad, pulled, and scoured.	1.9217	.3805	.0252	.0388	.0084	.1154	(*r*)	(*r*)	2.4900	194
do	2.2901	*s*.3884	.0269	.0414	.0090	.1231	(*r*)	(*r*)	*s*2.8789	195
Domestic; Montevideo; Kansas; Texas; Territory; XX, fine Chicago, and extra Chicago pulled; fine, X, Territory and Thacher scoured; Georgia; Bagdad.	1.8559	.4078	.0563	.0288	.0058	.0712	.....	.0145	2.4403	196

a Two-ply.
b Worsted, No. 75.00; dyed worsted, 60.00, and cotton, 46.00.
j Worsted, 58; dyed worsted, 10, and cotton, 10.
k Worsted, 56; dyed worsted, 12, and cotton, 6.
l Not reported.
m Not including officials and clerks.
n Average Nos. 5.00 and 6.50 having been used.
o Average Nos. 4.00 and 5.00 having been used.
p Used for back.
q Two-ply; used for face.
r Rent for water power, and taxes not paid by lessees of mill.
s Not including dyeing labor.

TABLE XII.—*The cost*

[Insurance, interest, depreciation of value of plant, and charges or

Number of—		Description of the product.										
							Numbers of yarn.				Per inch.	
							Warp.		Weft.			
Product.	Establishment.	Locality.	Name.	Year when produced.	Inches wide.	Yards per pound.	Wool.	Worsted	Wool.	Worsted.	Threads of warp.	Picks of weft.
197	24	United States	Worsted goods	1888–9	54.00	.67	4.00	a40.00	b4.70	.....	97	92
198	24	....do.....	....do.....	1888–9	54.00	.67	4.00	[illegible]	b4.68	.....	101	92
199	24	....do.....	....do.....	1888–9	54.00	.67	[illegible]	a40.00	c4.76	.....	97	92
200	24	....do.....	....do.....	1888–9	54.00	.62	4.00	a40.00	(d)	.....	100	94
201	13	....do.....	....do.....	1890	55.00	1.28	.....	a40.00	.....	a40.00	75	66
202	13	....do.....	....do.....	1890	55.00	1.10	.....	a40.00	.....	a40.00	105	80
203	13	....do.....	....do.....	1890	55.00	1.10	.....	a40.00	.....	a40.00	81	80
204	13	....do.....	....do.....	1890	55.00	1.00	.....	a40.00	3.25	.....	93	46
205	13	....do.....	....do.....	1890	55.00	1.00	.....	a40.00	.....	a40.00	101	84
206	13	....do.....	....do.....	1890	55.00	.70	e3.50	f40.00	(g)	.....	108	82
207	13	....do.....	....do.....	1890	55.00	.70	e3.50	f40.00	5.50	.....	128	80
208	13	....do.....	....do.....	1890	55.00	.70	e3.50	f40.00	(h)	.....	110	86
209	13	....do.....	....do.....	1890	55.00	.70	e3.50	f40.00	e5.50	b40.00	122	82
210	13	....do.....	....do.....	1890	55.00	.70	.....	a40.00	(i)	.....	105	100
211	38	...do.....	....do.....	1890	56.00	1.04	.....	a42.00	.....	a42.00	96	64
212	20	...do.....	....do.....	1890–1	56.00	.84	6.00	12.00	3.00	.....	72	40
213	46	Great Britain	....do.....	1889	56.00	.80	.....	a44.00	.....	16.00	(l)	104
214	38	United States	...do.....	1890	56.00	.77	.....	a42.00	.....	a42.00	125	88
215	44	Great Britain	....do.....	1889	56.00	.75	.....	a28.00	.....	12.75	(l)	59
216	45	...do.....	....do.....	1890	58.00	.86	.....	a48.00	.....	a48.00	128	64
217	42	Continent of Europe.	....do.....	1890	63.00	.67	.....	a40.00	.....	a80.00	98	132

a Two-ply.
b Average Nos. 3.00 and 6.50 having been used.
c Average Nos. 3.00, 5.00, and 6.50 having been used.
d Nos. 5.00 and 6.50 were used.
e Used for back.
f Two-ply; used for face.
g No. 5.50 was used for face and 3.50 for back.
h Nos. 3.50 and 5.50 were used.
i No. 5.50 was used for face and 3.00 for back.
k The expenditures for oil are inseparably combined with those for other supplies and repairs.
l Not reported.

of a yard—Continued.

freight of product to place of free delivery are not included.]

Description of the wool used.	Cost of a yard.									Number of product.
	Materials (net).	Labor.	Officials and clerks.	Supplies and repairs.			Water power.	Taxes.	Total.	
				Fuel and lighting.	Oil.	Other.				
	Dolls.	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	*Dolls.*	
(Domestic) Ohio, Missouri, and Texas.	1.7255	.5856	.0338	.0402	.0122	.1200	.....	.0077	2.5250	179
.....do	1.7650	.5998	.0342	.0407	.0125	.1214	.....	.0078	2.5814	198
.....do	1.8074	.6126	.0370	.0440	.0135	.1312	.....	.0084	2.6541	199
.....do	1.7230	.6505	.0415	.0496	.0157	.1480	.....	.0096	2.6379	200
Domestic, Texas, California, Montevideo, Territory.	1.1480	.3144	.0502	.0271	.0089	.0740	.....	.0105	1.6322	201
.....do	1.5224	.4027	.0608	.0328	.0097	.0897	.....	.0249	2.1430	202
.....do	1.3607	.3894	.0608	.0328	.0097	.0897	.....	.0249	1.9680	203
.....do	1.2315	.3066	.0350	.0189	.0056	.0526	.....	.0143	1.6615	204
.....do	1.6772	.4227	.0639	.0344	.0102	.0942	.....	.0261	2.3287	205
.....do	1.3541	.5009	.0624	.0336	.0100	.0920	.....	.0255	2.0785	206
.....do	1.4689	.4962	.0608	.0328	.0097	.0897	.....	.0249	2.1850	207
.....do	1.5044	.5281	.0624	.0353	.0104	.0964	.....	.0268	2.2638	208
.....do	1.4007	.5001	.0624	.0336	.0100	.0920	.....	.0255	2.1243	209
.....do	1.5083	.5962	.0761	.0410	.0100	.1122	.....	.0311	2.3749	210
.....	1.3000	.3787	.0215	.0092	(*k*)	*k*.0128	.....	.0036	1.7258	211
New Jersey	.3501	.1410	.0272	.0174	.0052	.0022	.....	.0016	.5447	212
.....	*m*.7849	.1445	.0017	(*n*)	(*n*)	*n*.0532	.....	.0017	.9860	213
.....	1.5300	.4462	.0300	.0130	(*k*)	*k*.0180	.....	.0050	2.0422	214
.....	.8644	.1359	.0315	.0045	.....	*o*.0135	.....	.0023	*p*1.0521	215
.....	.5739	.4640	(*q*)	.0325	.0020	.0020	.....	.0020	*r*1.0764	216
.....	1.0192	*s*.2756	.0160	.0142	(*k*)	*k*.0487	.....	.0040	*t*1.3777	217

m Including oil and soap.
n The expenditures for fuel and lighting, power and machinery are inseparably combined with those for other supplies and repairs, and the expenditures for oil and soap, with those for dye.
o The expenditures for rent are inseparably combined with those for other supplies and repairs.
p Including rent.
q Not reported.
r Not including officials and clerks.
s Not including finishing.
t In addition $0.1341 was paid another establishment for dyeing and finishing.

APPENDIX M.

TARIFF LEGISLATION ON WOOL.

There have been numerous acts of Congress imposing duties on wool and woolen goods. Raw wool was admitted free of duty until July 1, 1816, when it was taxed 15 per cent. By the act of May 22, 1824, which took effect July 1 of that year, wool valued at 10 cents or less per pound was taxed 15 per cent; and wool valued at over 10 cents per pound was taxed at 20 per cent until June 1, 1825, 25 per cent until June 1, 1826, and 30 per cent thereafter until the act of May 19, 1828. By this act all wool was taxed 4 cents per pound and 40 per cent ad valorem from September 2 of that year to July 1, 1829; and from this date until July 1, 1830, 4 cents a pound and 45 per cent ad valorem, and from this date on 4 cents a pound and 50 per cent ad valorem. By the act of August 30, 1842, wool valued at 7 cents or less per pound was taxed 5 per cent, and all other wools 3 cents a pound and 30 per cent ad valorem. Goats' hair and mohair unmanufactured was taxed also 1 cent a pound.

By the act of July 30, 1846, all wool valued at above 7 cents per pound was taxed 30 per cent ad valorem, and goat's hair was taxed 20 per cent; by the act of March 3, 1857, all wool valued at over 20 cents per pound was taxed 24 per cent, and under 20 cents was free. Goat's hair and mohair were by that act taxed 15 per cent. By the act of March 2, 1861, wool valued at less than 18 cents per pound was taxed 5 per cent, and exceeding 18 cents and not exceeding 24 cents per pound 3 cents a pound, and exceeding 24 cents and not exceeding 32 cents per pound 9 cents a pound. By the act of June 30, 1864, wool of a value exceeding 12 cents and not exceeding 24 cents per pound was taxed 6 cents; and value less than 12 cents per pound, 3 cents per pound; value exceeding 24 cents and not exceeding 32 cents per pound, 10 cents per pound and 10 per cent; value exceeding 32 cents per pound, 12 cents per pound and 10 per cent.

This brings us to the act of March 2, 1867, by which wools, class 1, namely, clothing wools, value 32 cents or less per pound, were taxed 10 cents per pound and 11 per cent ad valorem; value exceeding 32 cents per pound, 12 cents per pound and 10 per cent ad valorem.

Class 2, namely, combing wool, value 32 cents or less per pound, 10 cents per pound and 11 per cent; value exceeding 32 cents per pound, 12 cents per pound and 10 per cent.

Class 3, namely, carpet wools, value 12 cents or less per pound, 3 cents per pound; value exceeding 12 cents per pound, 6 cents per pound.

This act also provided that the wools of all classes if washed should be double, and if scoured the duty should be treble. The act of 1867 was slightly modified by the act of June 6, 1872, which reduced the duty on wools of class 1, valued at 32 cents or less per pound, to 9 cents per pound and to 9.9 per cent ad valorem; value exceeding 32 cents per pound reduced to 10.8 cents per pound and 9 per cent ad valorem; and a similar reduction was made on wools of class 2, and wools of class 3 valued at 12 cents or less per pound were reduced to 2.7 cents per pound and value over 12 cents per pound to 5.4 cents per pound. But by the act of March 3, 1875, the duties on wool were increased again and fixed as provided in the act of March 2, 1867.

By the act of March 3, 1883, the wools of class 1, value 30 cents or less per pound, were reduced to 10 cents a pound, and value over 30 cents per pound to 12 cents per pound, the ad valorem duties provided for in the act of March 2, 1867, having been repealed. The same reduction was made in wools of class 2, value 30 cents or less per pound, 10 cents a pound; value over 30 cents per pound, 12 cents a pound. The wools of class 3, value 12 cents or less per pound, were reduced to 2½ cents per pound, and value over 12 cents per pound 5 cents a pound. These rates are imposed upon wool in the grease. When washed the duty is double, and when scoured the duty is treble the amount placed on the raw wool.

By the act of October 1, 1890, the duty upon all wool and hair of the first class was fixed at 11 cents per pound, and upon all wools and hair of the second class 12 cents per pound. On wools of the third class and on camel's hair of the third class, value 13 cents or less per pound, including charges, the duty was fixed at 32 per cent ad valorem; on wools of the third class and on camel's hair of third class, the value exceeding 13 cents per pound, including charges, the duty was fixed at 50 per cent ad valorem. These rates are in force at this time. It will be observed that in the present law the words "including charges" are added, which causes a very material increase in the rates.

TARIFFS ON WOOLEN GOODS.

The first tariff act, which was approved July 4, 1789, imposed no duties on wool or woolen goods, except 7½ per cent on ready-made clothing and wool hats, and 5 per cent on unenumerated articles; the act of August 10, 1790, imposed a duty

of 7½ per cent ad valorem on carpets of all kinds, ready-made clothing, and wool hats; the act of May 2, 1792, increased the rate on these articles to 10 per cent and imposed the same rate on knit gloves, caps, mitts or mittens, and binding, 15 per cent on laces, etc., and on unenumerated articles 7½ per cent; the act of June 7, 1794, increased it to 15 per cent upon these articles and 10 per cent upon unenumerated articles; the act of May 26, 1804, increased it to 17½ per cent on all these articles, except unenumerated articles which were taxed 15 per cent; the act of July 1, 1812, increased the duty on same articles to 35 per cent and on unenumerated articles to 30 per cent; the act of April 27, 1816, reduced the duties on ready-made clothing and wool hats to 30 per cent, and on socks and stockings to 20 per cent.

Manufactures of wool not otherwise provided for were taxed by this act 25 per cent from July 1, 1816, until June 30, 1819, and after this date 20 per cent. The act of May 22, 1824, imposed a duty on blankets of 25 per cent, on Brussels, Turkey, and Wilton carpets 50 cents per square yard, and on Venetian and ingrain carpets a duty of 25 cents per square yard. The act of May 19, 1828, imposed a duty of 35 per cent on blankets, 70 cents per square yard on Brussels, Turkey, and Wilton carpets, and 40 cents per square yard on Venetian and ingrains. The act of July 14, 1832, reduced the duties on blankets valued at not above 75 cents each to 5 per cent, and on all others to 25 per cent, and fixed the duties on Brussels, Turkey, and Wilton carpets at 63 cents per square yard, and on Venetian and ingrain at 35 cents per square yard. On all other carpets the duty was fixed at 25 per cent; the duty on ready-made clothing was continued at 50 per cent, and was placed on flannels at 16 cents per square yard; on wool hats, 30 per cent; on wool or felt bodies, 18 cents each; on knit gloves, etc., 25 per cent; on hosiery, 25 per cent; on merino shawls 50 per cent, and worsted shawls 10 per cent; woolen yarns, 4 cents per pound and 50 per cent, and worsted yarns 20 per cent; manufactures of wool not otherwise provided for, 50 per cent; worsted-stuff goods, 10 per cent; manufactures of worsteds not otherwise provided for, 10 per cent; laces and tassels used by coachmakers, 35 per cent; silk and worsted laces, 10 per cent; on kerseys, value not exceeding 35 cents per square yard, 5 per cent.

By the act of August 30, 1842, blankets valued at not above 75 cents or not beyond 72 by 52 inches, nor less than 45 by 60 inches were taxed 15 per cent; blankets of goat's hair or mohair 20 per cent, and all others 25 per cent; carpets, baizes, and bockings, 14 cents per square yard; Brussels and Turkey, 55 cents per square yard; Aubusson and Saxony, 65 cents per square yard; mats and rugs not exclusively of vegetable material 40 per cent, and of wool, flax, or cotton, or parts of either, 30 per cent; Wilton and treble ingrain carpets, 65 cents per square yard; Venetian and ingrain, 30 cents per square yard; ready-made clothing 50 per cent, and other clothing made by hand 40 per cent; embroidered gold, etc., 50 per cent; flannels of whatever material, except cotton, 14 cents per square yard; felt or hat bodies 18 cents each, and hats 30 per cent; knit goods, gloves, socks, etc., 30 per cent; laces and tassels used by upholsterers, 35 per cent; woolen and worsted yarns, 30 per cent; manufactures of wool, or of which wool shall be the component material of chief value, not otherwise provided for, 40 per cent; manufactures of worsted not otherwise provided for, 30 per cent.

By the act of July 30, 1846 (Walker tariff), blankets of all kinds were taxed 20 per cent; carpets of all kinds, 30 per cent; baizes and bockings, 25 per cent; mats and screens not exclusively of vegetable material, 30 per cent; embroidered clothing, 30 per cent; ready-made clothing, 30 per cent; flannels, 25 per cent; felt or hat bodies, 20 per cent; hats, 20 per cent; knit socks, etc., 30 per cent; lastings, 5 per cent; shoddy, mungo, waste, and flocks, 5 per cent; woolen and worsted yarn, 25 per cent; manufactures of wool or of which wool shall be the component material of chief value, not otherwise provided for, 30 per cent; listings, 20 per cent; worsteds not otherwise provided for, 25 per cent.

By the act of March 3, 1857, blankets were taxed 15 per cent; carpets of all kinds, 24 per cent; baizes and bockings, 19 per cent; mats and screens not exclusively of vegetable material, 24 per cent; embroidered clothing, 24 per cent; ready-made clothing, 24 per cent; flannels, 19 per cent; felt or hat bodies, 15 per cent; hats, 15 per cent; knit socks, etc., 24 per cent; lastings, 4 per cent; rags, shoddy, mungo, waste, and flocks, 4 per cent; wool and worsted yarn, 19 per cent; manufactures of wool, and of which wool shall be the component material of chief value, not otherwise provided for, 24 per cent; worsteds, not otherwise provided for, 19 per cent.

By the acts of March 2, 1861, and July 14, 1862, increased duties were imposed upon blankets, bunting, carpets, clothing, woolen cloths, women's dress goods, flannels, hats, shawls, yarns, and manufactures of wool not otherwise provided for, and upon some articles of less importance.

The act of June 30, 1864, imposed duties upon woolen goods as follows: Balmoral skirts, 24 cents a pound and 35 per cent; belts or felts for printing machines, 20 cents a pound and 35 per cent; blankets, value not exceeding 28 cents per pound, 12 cents per pound and 20 per cent; blankets, value exceeding 28 cents per pound and not exceeding 40 cents per pound, 24 cents a pound and 25 per cent;

blankets, value exceeding 40 cents per pound, 24 cents a pound and 30 per cent ad valorem; bunting, 50 per cent; carpets valued at $1.25 or under, per square yard, 70 cents a square yard; carpets valued at over $1.25 per square yard, 80 cents per square yard; Brussels and tapestry Brussels carpets, 50 cents per square yard; druggets and bockings, 25 cents per square yard; mats, screens, etc., not exclusively of vegetable material, 45 per cent; of wool, flax, or cotton, 40 per cent; velvet or tapestry velvet carpets, 50 cents per square yard; treble ingrain, etc., carpets, 40 cents per square yard; two-ply ingrain, 35 cents per square yard; ready-made clothing, not otherwise provided for, 24 cents per pound and 40 per cent; woolen cloths, 24 cents a pound and 40 per cent; woolen cloths, value over $2 per square yard, 24 cents a pound and 45 per cent; women's and children's dress goods, gray or uncolored, valued not over 30 cents per square yard, 4 cents per square yard and 25 per cent; value over 30 cents per square yard, 6 cents per square yard and 30 per cent; stained, colored, or printed, valued not over 30 cents per square yard, 4 cents per square yard and 30 per cent; valued over 30 cents per square yard, 6 cents per square yard and 35 per cent; flannels, unbleached, valued at 30 cents or less per square yard, 24 cents a pound and 30 per cent; value above 30 cents per square yard, 24 cents a pound and 35 per cent; colored, printed, or part of silk, 50 per cent; hats, 24 cents per pound and 35 per cent; shirts, drawers, and hosiery, 20 cents a pound and 30 per cent; lasting, etc., 10 per cent; rags, shoddy, etc., 3 cents a pound; shawls of wool or part of wool, 24 cents a pound and 40 per cent, valued at over $2 per square yard, 24 cents a pound and 45 per cent; woolen or worsted yarns, value less than 50 cents per pound and not exceeding No. 14, 16 cents a pound and 25 per cent; value over 50 cents and not over $1 per pound, 20 cents a pound and 25 per cent; valued at over $1 per pound, 24 cents a pound and 30 per cent; manufactures of wool not otherwise provided for, 24 cents a pound and 40 per cent; valued at over $2 per square yard, 24 cents a pound and 45 per cent; worsteds not otherwise provided for, 50 per cent.

These were the rates in force at the time of the passage of the act of March 2, 1867, which largely increased the duties on wool and made correspondingly increased duties on woolen goods. The important increases on woolen goods by the act of March 2, 1867, were as follows:—Blankets, value not exceeding 40 cents a pound, 20 cents a pound and 35 per cent; valued at above 40 cents per pound and not exceeding 60 cents per pound, 30 cents a pound and 35 per cent; valued at above 60 cents and not exceeding 80 cents per pound, 40 cents a pound and 35 per cent; valued at over 80 cents per pound, 50 cents a pound and 35 per cent; bunting 20 cents per square yard and 35 per cent; Brussels and tapestry, Brussels carpets 28 cents per square yard and 35 per cent; Aubusson, etc., carpets, 50 per cent; Brussels carpets 44 cents per square yard and 35 per cent; velvet and tapestry velvet carpets 40 cents per square yard and 35 per cent; Saxony and Wilton carpets 70 cents per square yard and 35 per cent; Venetian carpets 17 cents per square yard and 35 per cent; Venetian and ingrain 12 cents per square yard and 35 per cent; ready-made clothing 50 cents per pound and 40 per cent; woolen cloths, not otherwise provided for, 50 cents per pound and 35 per cent; women's and children's dress goods composed in part of wool, worsted, etc., valued at not exceeding 20 cents per square yard, 6 cents per square yard and 35 per cent; valued at above 20 cents per square yard, 8 cents per square yard and 40 per cent; all weighing over 4 ounces per square yard, 50 cents per pound and 35 per cent; flannels valued at not exceeding 40 cents a pound, 20 cents a pound and 35 per cent; valued at above 40 and not exceeding 60 cents per pound, 30 cents a pound and 35 per cent; valued at above 60 and not exceeding 80 cents per pound, 40 cents a pound and 35 per cent; valued at above 80 cents per pound, 50 cents a pound and 35 per cent; hats, valued at not exceeding 40 cents per pound, 20 cents a pound and 35 per cent; valued at above 40 and not exceeding 60 cents per pound, 30 cents a pound and 35 per cent; valued at above 60 cents and not exceeding 80 cents per pound, 40 cents a pound and 35 per cent; valued at above 80 cents per pound, 50 cents a pound and 35 per cent; drawers and hosiery valued at not exceeding 40 cents per pound, 20 cents a pound and 35 per cent; valued at above 40 and not exceeding 60 cents per pound, 30 cents a pound and 35 per cent; valued at above 60 cents and not exceeding 80 cents per pound, 40 cents a pound and 35 per cent; valued at above 80 cents per pound, 50 cents a pound and 35 per cent; yarns, value not exceeding 40 cents per pound, 20 cents per pound and 35 per cent; valued at above 40 cents and not exceeding 60 cents per pound, 30 cents a pound and 35 per cent; valued at above 60 cents and not exceeding 80 cents per pound, 40 cents a pound and 35 per cent; valued at above 80 cents per pound, 50 cents a pound and 35 per cent; manufactures of wool not otherwise provided for, 50 cents a pound and 35 per cent; worsteds valued at not exceeding 40 cents per pound, 20 cents a pound and 35 per cent; valued at above 40 and not exceeding 60 cents per pound, 30 cents a pound and 35 per cent; valued at above 60 and not exceeding 80 cents per pound, 40 cents a pound and 35 per cent; valued at above 80 cents per pound, 50 cents a pound and 35 per cent.

The act of June 6, 1872, slightly reduced the rates fixed in the preceding act of March 2, 1867; but the act of March 3, 1875, restored the rates fixed in the act of March 2, 1867. These were the rates in force at the time of the passage of the act of March 3, 1883. In this act there was a repeal of the ad valorem duties on wool of the first and second classes, and a reduction of the duty on carpet wools valued at 12 cents or less per pound from 3 cents per pound to 2½ cents per pound; valued at over 12 cents per pound from 6 cents per pound to 5 cents per pound. These reductions in wool were followed in the same act by corresponding reductions in the duties on woolen goods. The more important rates fixed by the act of March 3, 1883, were as follows:

Blankets valued at not exceeding 30 cents per pound, 10 cents a pound and 35 per cent; valued at above 30 cents and not exceeding 40 cents per pound, 12 cents a pound and 35 per cent; valued at above 40 and not exceeding 60 cents per pound, 18 cents a pound and 35 per cent; valued at above 60 and not exceeding 80 cents per pound, 24 cents a pound and 35 per cent; valued at over 80 cents per pound, 35 cents a pound and 40 per cent; bunting 10 cents per square yard and 35 per cent; Aubusson, etc., carpets, 45 cents a square yard and 30 per cent; Brussels carpets 30 cents per square yard and 30 per cent; druggets, bockings, etc., 15 cents per square yard and 30 per cent; mats not exclusively of vegetable material 40 per cent; of wool, flax, etc., 40 per cent; velvet and tapestry velvet carpets 25 cents per square yard and 30 per cent; Saxony, Wilton and Tournay velvet carpets 45 cents per square yard and 30 per cent; tapestry, Brussels, etc., 20 cents per square yard and 30 per cent; treble ingrain, etc., 12 cents per square yard and 30 per cent; yarn, Venetian and two-ply ingrain carpets, 8 cents per square yard and 30 per cent; ready-made clothing, 40 cents per pound and 35 per cent; cloaks, dolmans, jackets, etc., 45 cents per pound and 40 per cent; woolen cloths valued at not exceeding 80 cents per pound, 35 cents per pound and 35 per cent ad valorem; valued at above 80 cents per pound, 35 cents per pound and 40 per cent; women's and children's dress goods, valued at not exceeding 20 cents per square yard, 5 cents per square yard and 35 per cent; valued at above 20 cents per square yard, 7 cents per square yard and 40 per cent; all weighing over 4 ounces per square yard 35 cents per pound and 40 per cent; composed wholly of wool, worsted, hair, alpaca, etc., weighing 4 ounces or less per square yard, 9 cents per square yard and 40 per cent; weighing over 4 ounces per square yard, 35 cents per pound and 40 per cent; flannels valued at not exceeding 30 cents per pound, 10 cents a pound and 35 per cent; valued at above 30 and not exceeding 40 cents per pound, 12 cents a pound and 35 per cent; valued at above 40 and not exceeding 60 cents per pound, 18 cents a pound and 35 per cent; valued at above 60 and not exceeding 80 cents per pound, 24 cents a pound and 35 per cent; valued at above 80 cents per pound, 35 cents a pound and 40 per cent; hats valued at not exceeding 30 cents per pound, 10 cents a pound and 35 per cent; valued at above 30 and not exceeding 40 cents per pound, 12 cents a pound and 35 per cent; valued at above 40 and not exceeding 60 cents per pound, 18 cents a pound and 35 per cent; valued at above 60 and not exceeding 80 cents per pound, 24 cents per pound and 35 per cent; valued at above 80 cents per pound, 35 cents a pound and 40 per cent; shirts, drawers, and hosiery valued at not exceeding 30 cents per pound, 10 cents a pound and 35 per cent; valued at above 30 and not exceeding 40 cents per pound, 12 cents a pound and 35 per cent; valued at above 40 and not exceeding 60 cents per pound, 18 cents a pound and 35 per cent; valued at above 60 and not exceeding 80 cents per pound, 24 cents a pound and 35 per cent; valued at above 80 cents per pound, 35 cents a pound and 40 per cent; shawls valued at not exceeding 80 cents per pound, 35 cents a pound and 35 per cent; valued at above 80 cents per pound, 35 cents a pound and 40 per cent; composed wholly or in part of worsted, etc., 40 cents per pound and 35 per cent; webbings, etc., 30 cents per pound and 50 per cent; yarns valued at not exceeding 30 cents per pound, 10 cents a pound and 35 per cent; valued at above 30 and not exceeding 40 cents per pound, 12 cents a pound and 35 per cent; valued at above 40 and not exceeding 60 cents per pound, 18 cents per pound and 35 per cent; valued at above 60 and not exceeding 80 cents per pound, 24 cents a pound and 35 per cent; valued at above 80 cents per pound, 35 cents a pound and 40 per cent; worsteds valued at not exceeding 30 cents per pound, 10 cents a pound, and 35 per cent; valued at above 30 and not exceeding 40 cents per pound, 12 cents a pound and 35 per cent; valued at above 40 and not exceeding 60 cents per pound, 18 cents a pound and 35 per cent; valued at above 60 and not exceeding 80 cents per pound, 24 cents per pound and 35 per cent; valued at above 80 cents per pound, 35 cents a pound and 40 per cent.

These were the rates on woolen goods in force prior to the passage of the act of October 1, 1890.

APPENDIX N.

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, February 26, 1892.

SIR: In reply to your esteemed favor of February 23, 1892, I beg to hand you herewith a statement showing total for the woolen industry for the census of 1880 and the census of 1890, also a copy of a communication from Mr. S. N. D. North, transmitting these data and giving explanation in regard thereto.

In this connection I beg to call your attention to the fact that this information is preliminary and subject to such correction as may be found necessary upon receipt of further information and examination of the returns and tabulations.

Very respectfully,

F. R. WILLIAMS,
Special Agent in charge of Manufactures.

Hon. WM. M. SPRINGER,
House of Representatives, Washington, D. C.

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, February 26, 1892.

SIR: In reply to the letter from Hon. Wm. M. Springer, chairman of the Ways and Means Committee of the House of Representatives, asking for certain data with reference to the manufacture of wool in the United States, as shown by the census of 1890, I beg leave to inclose a table to be transmitted to him. The figures given in this table have been somewhat hastily compiled from the tabulation sheets, in order that there might be no delay in responding to Mr. Springer's request. They are subject to correction, therefore, and will be somewhat modified in their final publication by reason of the fact that the preliminary data from one or two establishments are still lacking.

I have to request that, in transmitting this table to Mr. Springer, you will explain to him that any comparisons instituted between the statistics of 1880 and those of 1890 should take into consideration the following points:

(1) The number of establishments reported in 1890 includes woolen mills which were idle during the census year, and the amount of capital invested also includes that represented in these idle mills.

(2) The item of miscellaneous expenses of manufacture reported for 1890 includes an element in the cost of manufacture which was omitted from the census of 1880, such as taxes, insurance, interest, rent, and small sundries.

(3) The value of product reported in 1890 includes the value of the product of the shoddy mills, which was not included in the value of product as reported in 1880. The value of the shoddy returned by the census of 1880 was $4,989,615. The value of the shoddy reported in 1890 is about $9,000,000. The exact figures will be available shortly.

Very respectfully,

S. N. D. NORTH,
Special Agent.

Hon. ROBERT P. PORTER,
Superintendent of Census, Washington, D. C.

Preliminary statement of woolen industries for censuses of 1880 and 1890.

States.	Year.	Number of establishments.	Capital invested.	Miscellaneous expenses.	Cost of materials used.	Value of product.
United States	1880*a*	2,689	$159,091,869	.....	$164,371,551	$267,252,913
	1890*b*	2,867	*b*324,535,241	$19,781,527	208,971,024	345,942,824
Alabama	1880	14	28,900	.....	49,361	63,745
	1890	9	113,098	3,841	114,890	207,875
Arkansas	1880	25	85,550	.....	85,972	127,430
	1890	7	42,435	802	27,989	38,360
California	1880	9	1,676,500	.....	997,539	1,634,856
	1890	15	2,995,950	171,571	828,771	1,428,203
Connecticut	1880	102	14,221,637	.....	14,742,091	24,855,729
	1890	116	25,492,102	1,528,349	12,973,271	21,492,025

a See Tenth Census Reports, Vol. II, p. 964.

b Capital invested in 1890 includes hired property to the value of $17,742,693. Also capital to the value of $6,134,090, controlled by 271 establishments that were idle during the census year.

Preliminary statement of woolen industries for censuses of 1880 and 1890—Continued.

States.	Year.	Number of establishments.	Capital invested.	Miscellaneous expenses.	Cost of materials used.	Value of product.
Delaware	1880	5	$352,559	.....	$448,285	$665,253
	1890	4	506,974	$27,404	295,605	482,022
Georgia	1880	32	180,733	.....	165,065	239,390
	1890	19	444,033	21,492	166,696	340,095
Illinois	1880	67	1,433,353	.....	1,623,693	2,380,584
	1890	66	3,383,831	193,846	1,869,858	3,471,651
Indiana	1880	86	2,318,705	.....	1,926,670	2,887,547
	1890	65	3,827,195	306,970	2,267,680	3,863,786
Iowa	1880	37	555,700	.....	437,301	682,812
	1890	24	901,900	40,469	507,478	700,981
Kansas	1880	5	131,925	.....	107,251	211,525
	1890	(a)	.....	.....	.....	.....
Kentucky	1880	98	890,750	.....	852,405	1,264,988
	1890	45	2,902,383	186,743	1,656,710	2,784,768
Louisiana	1880	.....	.....	.....	.....	.....
	1890	4	122,900	3,178	58,004	152,455
Maine	1880	97	4,016,828	.....	4,444,990	6,962,003
	1890	91	9,741,422	600,873	5,737,484	8,857,856
Maryland	1880	16	344,010	.....	382,224	539,028
	1890	20	582,681	24,394	520,870	781,723
Massachusetts	1880	271	38,231,375	.....	41,677,919	67,451,905
	1890	366	76,611,687	5,023,190	45,937,152	74,295,867
Michigan	1880	50	706,189	.....	583,241	858,766
	1890	52	1,899,460	120,071	886,541	1,689,974
Minnesota	1880	14	198,500	.....	160,867	263,378
	1890	27	885,715	72,825	399,487	730,226
Mississippi	1880	8	331,500	.....	211,646	299,605
	1890	7	1,553,455	18,054	508,039	924,185
Missouri	1880	102	755,550	.....	723,286	1,015,961
	1890	46	823,013	34,522	341,461	629,902
New Hampshire	1880	85	8,374,855	.....	7,854,955	13,220,850
	1890	102	15,123,749	879,216	8,895,504	14,589,420
New Jersey	1880	45	3,795,695	.....	4,117,035	6,829,074
	1890	59	8,723,922	673,367	6,330,201	10,374,280
New York	1880	264	23,583,574	.....	19,550,793	34,978,287
	1890	391	50,125,453	2,687,180	30,786,418	53,909,624
North Carolina	1880	49	203,100	.....	255,707	303,160
	1890	38	437,628	17,955	265,183	435,821
Ohio	1880	146	1,570,340	.....	1,395,512	2,198,264
	1890	136	4,614,419	236,608	3,434,506	5,346,962
Oregon	1880	10	566,800	.....	227,496	549,030
	1890	6	1,350,585	87,156	327,252	614,932
Pennsylvania	1880	654	35,642,016	.....	43,664,468	67,821,397
	1890	771	69,666,299	4,104,644	55,011,590	90,992,210
Rhode Island	1880	62	13,022,116	.....	13,094,650	21,624,204
	1890	102	29,147,587	2,034,724	22,726,248	36,073,285
South Carolina	1880	11	7,900	.....	19,455	24,075
	1890	(a)	.....	.....	.....	.....
Tennessee	1880	106	418,664	.....	423,054	620,724
	1890	55	1,421,879	56,533	759,766	1,216,419
Texas	1880	1	97,500	.....	44,435	80,500
	1890	6	470,170	17,333	211,607	394,080
Utah	1880	11	382,000	.....	147,226	279,424
	1890	15	643,329	29,751	188,889	392,094
Vermont	1880	50	2,812,161	.....	2,372,428	3,813,077
	1890	42	4,283,890	244,814	2,116,882	3,872,784
Virginia	1880	48	456,750	.....	383,080	577,968
	1890	43	1,011,447	69,537	466,340	795,309
Washington	1880	1	40,000	.....	52,000	70,000
	1890	(a)	.....	.....	.....	.....
West Virginia	1880	56	298,170	.....	247,543	359,586
	1890	35	357,881	16,008	210,461	350,132
Wisconsin	1880	52	1,359,964	.....	901,918	1,498,886
	1890	66	4,063,739	236,693	2,024,108	3,507,455
All other States	1890	a17	263,029	11,414	98,092	206,063

a Includes States in which there are less than three establishments that were in operation during the census year, so that the operations of individual establishments may not be disclosed. These establishments are distributed as follows: Colorado, 2; Florida, 1; Idaho, 1; Kansas, 7; Nebraska, 2; South Carolina, 1; South Dakota, 2; Washington, 1.

APPENDIX O.

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, D. C., February 29, 1892.

SIR: Inclosed herewith please find copy of a letter from Expert Special Agent S. N. D. North, in charge of the investigation relating to the statistics of wool manufactures, transmitting statement requested in your several communications of recent date, so far as it has been practicable to prepare them. Your attention is respectfully called to the fact that the figures are preliminary and subject to revision upon receipt of additional information.

The data covering the following items, viz, quantity of "camel's hair," quantity of "mohair," and total quantity of "raw materials," will be forwarded to-morrow, or as soon thereafter as the totals can be ascertained by this office. The table of materials consumed will be supplemented by a table indicating the quantities and values of various yarns manufactured for sale, and showing their distribution among the various industries using them, and will indicate more accurately than these tables can the relative quantity of wool used in each branch of the manufacture.

The following data for Table 2 is also omitted, viz, "hands employed" and "total amount of wages paid," and can not be furnished for several days.

Very respectfully,

ROBERT P. PORTER,
Superintendent of Census.

Hon. WM. M. SPRINGER,
House of Representatives, Washington, D. C.

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, February 29, 1892.

SIR: I transmit herewith two additional tables requested by Hon. William M. Springer, chairman of the Ways and Means Committee of the House of Representatives, showing approximately the quantities and value of the principal raw materials consumed in the wool manufactures of the United States during the census year of 1890, and the summary classification of the manufacture into its several branches.

The figures are subject to material modification, as the tabulation sheets are revised on receipt of additional information; but they present a sufficiently accurate statement of the comparative use of the several raw materials in the branches of industry committed to my charge.

These branches of industry included not only the manufacture of woolen and worsted goods proper, but also the manufacture of shoddy, and the manufacture of hosiery and knit goods of both wool and cotton. The tables inclosed have been so prepared as to permit as exact a comparison as possible with the similar statistics of 1880.

The hosiery and knit goods industry is classified with the wool manufactures in accordance with the rule of classification in mixed textiles which assigns them to their group according to their material of chief value. The value of the wool consumed in hosiery and knit goods in 1890 was $8,269,418, and of the cotton $3,714,065, and if it were practicable to so take the census of this industry, their product might be apportioned between the wool manufacture and the cotton manufacture in about the same ratio.

It is thus to be borne in mind that these tables necessarily include a great branch of industry that is distinctively a cotton industry. The quantity of cotton consumed in the wool manufacture proper will be exaggerated in calculations based upon the inclosed tables which do not take this fact into account. Of the total of 75,638,865 pounds of cotton here reported 32,447,617 pounds were used in hosiery and knit goods, and of the total value of the products of hosiery and knit goods establishments ($67,637,442) about $20,000,000 was pure cotton hose or knit goods, into which not a particle of wool entered.

The total quantity of wool consumed in the census year 1890 is found to have been 372,873,713 pounds in "the condition purchased" as compared with 296,192,229 pounds in 1880. By adding to this total the camel's hair and mohair, the wool contained in imported yarns consumed by domestic manufacturers, and the proper allowance for the washed and scoured wool included in the returns made under the head "in condition purchased," we may approximately ascertain the wool consumption of 1890 as equivalent to 423,000,000 pounds in the grease.

The apparent decrease in the number of establishments engaged in the manufac-

ture of woolen goods is a continuance of the tendency observed in 1880. The census of 1870 reported 2,891 woolen mills; that of 1880, 1,990; that of 1890 shows 1,312. This decrease is due to the disappearance of the custom carding mills, which formerly carded wool to be spun in families. The census of 1880 contained returns from 570 of these neighborhood carding mills, besides 233 others which used less than 5,000 pounds of raw material per annum. These carding mills have now almost disappeared, while the number of fully equipped mills, supplied with machinery for all the processes of manufacture, has considerably increased, and there is a healthy growth in the machinery capacity of the United States, as will appear in the final analysis of the returns.

The custom carding mill is so distinctly an adjunct of household industry, that the propriety of continuing to enumerate it in statistics relating to manufactures by automatic machinery may be doubted, except for the purpose of illustrating the gradual disappearance of the household manufacture before the advance of the factory system.

The decrease in the number of wool hat manufacturing establishments will also be noted. This is attributable to the development of the fur hat industry, which has been excluded from these statistics.

The quantity of foreign wool consumed in the carpet manufactory is not correctly shown in the tables; as, in the first presentation, the separate manufacture of worsted yarns for carpets is classified under the head of worsted manufactures.

Respectfully submitted.

S. N. D. NORTH,
Special Agent.

HON. ROBERT P. PORTER,
Superintendent of Census, Washington, D. C.

TABLE NO. 1.—*Detailed statement materials consumed in wool manufacturing industries.*

Class.	Year.	Foreign wool.	Domestic wool.	Shoddy.	Animal hair.	Cotton purchased.
		Pounds.	*Pounds.*	*Pounds.*	*Pounds.*	*Pounds.*
Total of all industries	1890	114,116,612	258,757,101	61,626,261	16,865,764	75,638,865
	1880	73,200,698	222,991,531	52,163,926	6,335,169	48,000,857
Woolen goods	1890	16,822,138	168,525,806	51,862,397	9,619,277	37,158,712
	1880	20,482,667	177,042,288	46,583,983	4,497,524	24,744,964
Worsted goods	1890	37,869,023	59,832,451	2,608,831	1,083,090	3,881,743
	1880	15,687,815	25,461,511	190,800	519	1,757,842
Felt goods	1890	1,689,588	5,039,495	1,450,384	2,355,928	395,032
	1880	709,067	4,204,806	2,406,849	1,728,000	1,181,500
Wool hats	1890	259,325	4,278,628	306,351	147,600	.....
	1880	1,864,139	6,107,471	1,368,562	7,436	185,400
Carpets other than rags	1890	54,742,234	2,145,632	653,154	3,645,096	1,755,761
	1880	34,008,252	2,029,318	90,469	96,540	.....
Hosiery and knit goods	1890	2,734,304	18,935,089	4,745,144	14,173	32,447,617
	1880	448,758	8,146,137	1,523,263	5,150	20,131,151

TABLE NO. 2.—*Summary classification of woolen manufacturing industries.*

Industries.	Year.	No. of establishments.	Capital.	Miscellaneous expenses.	Value of all materials.	Value of products.
Aggregate for all industries	1890	2,503	$314,309,944	$19,547,200	$203,095,642	$338,231,109
	1880	2,689	159,091,869	.....	164,371,551	267,252,918
Woolen goods	1890	1,312	137,930,014	8,511,292	82,184,666	133,612,827
	1880	1,990	96,095,564	.....	100,845,611	160,606,721
Worsted goods	1890	143	72,194,642	4,980,187	50,644,342	79,194,652
	1880	76	20,374,043	.....	22,013,628	33,549,942
Felt goods	1890	34	4,589,021	238,621	2,809,187	4,654,768
	1880	26	1,958,254	.....	2,530,710	3,619,652
Wool hats	1890	32	4,369,184	251,818	2,799,791	5,329,921
	1880	43	3,615,830	.....	4,785,774	8,516,569
Carpets other than rags	1890	175	39,769,441	1,839,568	28,649,031	47,801,499
	1880	195	21,468,587	.....	18,984,877	31,792,802
Hosiery and knit goods	1890	807	55,457,642	3,730,714	36,008,625	67,637,442
	1880	359	15,579,591	.....	15,210,951	29,167,227

VIEWS OF THE MINORITY.

The committee's bill proposes the most radical changes in a single schedule of a tariff which was carefully and thoroughly revised by the last Congress. That revision was satisfactory to both the wool growers and the wool manufacturers, and from both these industries there comes up to this Congress an almost unanimous sentiment that the law may be permitted to stand as it is.

Within the year that has passed since the present law was enacted the flocks of the United States have increased more than 1,500,000 sheep, and, under any assurance of its permanence, this increase will continue rapidly. The number of woolen mills in the country has also increased; a great amount of idle machinery has been started up to supply the new market created by a curtailment of $22,500,000 in the imports of foreign woolen goods; old mills, long idle, have been reëquipped; large numbers of operatives have been given employment, and new industries, never before successfully undertaken in the United States, have been inaugurated.

Not only are woolgrowers and wool manufacturers encouraged and benefited by the law, but the great body of the people, the consumers, have shared in these benefits.

There is absolutely no reason in experience why the people of the United States should not be satisfied with the workings and results of the present law. The pending measure is one for which there is no demand outside of the professional agitators of tariff "reform" and politicians in search of a campaign issue.

The people of the United States find themselves able to secure all the woolens they require at a smaller cost than ever before in their experience. If cheapness is the one thing to be desired, it has certainly been achieved under a tariff which enables a dollar to purchase a larger and better quality of woolen goods than was possible under any previous tariff.

All the staple woolen goods and most of the fancy goods are now obtained in the greatest abundance at a cost to consumers less than ever before in the history of the country, except at brief intervals of universal panic and financial crisis.

A striking illustration of this is afforded by the case of Edward T. Steel & Co., of Bristol, Pa., one of the parties who appeared before the Ways and Means Committee of the last Congress to protest against the enactment of the present wool and woolens schedule, on the ground that it would greatly increase the cost of woolen goods to the American people. This firm was at that time manufacturing worsted goods in Bradford, England, and selling them, as importers, in the United States. Immediately upon the enactment of the law it trans-

ferred its entire plant, which is a very large one, employing many hundred operatives, from England to the United States, and has recently sent the following circular to the trade:

CIRCULAR OF E. T. STEEL & CO.

From our mill, when in England, we supplied the trade with the highest standard quality of medium-priced worsted suitings for men's wear.

The new tariff legislation rendered it impossible to manufacture these goods in England, unless a reduction was made in quality and weight. We have, therefore, transferred this plant from Bradford, England, to Bristol, Pa., where it will be operated by the same skill and expert management under which it was conducted abroad.

Every process of manufacture, from the raw material to the finished goods, will be carried on in this great mill; the same kinds of wool will be used, and we will guarantee these goods to be up to their previous standard of weight, width, and quality, WITHOUT ANY ADVANCE IN PRICES OVER FORMER RATES FOR THE SAME CLASS OF GOODS.

The case of E. T. Steel & Co. is only one of many evidences that the present law has largely added to our industrial resources, without adding to the cost of woolen goods.

NO INCREASE IN PRICES.

The deceptive character of the advance criticisms upon the law may again be illustrated by a quotation from the report of the minority of the last Ways and Means Committee upon the law of 1890:

The increase of taxes on wool and woolens amounts to $15,500,000 per annum, estimated upon the importations of the last fiscal year; but in fact it will be many times that amount by reason of the enhanced prices which consumers will be compelled to pay for the domestic product.

The sum of money paid for an equivalent amount of clothing in the last year, instead of being "many times more than $15,500,000," has actually been less. The Commerce and Navigation Report for the year ending July 1, 1891, three-fourths of which year were under the new law, shows that the total amount of duties paid on wool and woolens was $41,409,720.26, as against $42,900,936.98 paid in duties during the previous fiscal year, or an actual decrease in duties of $1,500,000. So far from increasing the amount paid for clothing by $15,500,000, or any other sum, the new law has actually reduced the cost of that article, not only by the amount of the duty saved, but by a much larger sum, represented by the increased consumption of domestic woolens at lower prices to the consumer.

There is a widespread popular recognition of the fact that constant tariff changes are a menace to stable business conditions. They unsettle values, even when they do not reduce prices, and they breed uncertainty, which means paralysis to business enterprise. The nation has just adjusted its business to a new tariff, carefully framed in accordance with the instructions of the voters to the Congress which effected that revision. That revision has already vindicated itself, by greatly enlarging our field for industrial enterprise, and has already disproved every prediction of higher prices and universal disaster which greeted its enactment. It has been in operation but little more than a year. Its friends are not afraid of the test of a fair trial for it. Its enemies apparently dare not trust themselves to the event of such a test.

THE WOOL DUTIES.

The committee's bill is a proposition to deprive the wool-growing industry of the United States at one blow of the entire tariff protection it has enjoyed under every tariff act since 1816. It can have but one effect, as swift as it is inevitable.

Its enactment would mean the complete and final abandonment of the effort to produce in the United States the supply of wool needed for the clothing of our people. A knowledge of the peculiar condition of the wool-growing industry throughout the world in the last few years fully demonstrates this truth. The supply has been increasing in an unprecedented degree. Within the last fifty years all the conditions of wool-growing have been radically changed. At that time Europe produced 94 per cent of the wool she consumed, and the three countries which together produce to-day the overwhelming preponderance of the raw material consumed by the great manufacturing nations were not reckoned as factors in the supply. Australia then grew but 14,000,000 pounds, South America 15,000,000 pounds, and the Cape Colonies 10,000,000 pounds, a total of but 39,000,000 pounds in an estimated world's production of 786,000,000 pounds. To-day these countries are producing more than 1,000,000,000 pounds in a total production of 2,000,000,000, or fully one-half, and of clothing wools more nearly three-fourths.

This abnormal development has produced a glut in the supply, under which the prices of wool have been rapidly falling, until they reached, in the year 1891, according to the Bradford Observer, a competent authority, the lowest average all-round prices ever known. The London value of a bale of the best Australian wool has fallen from £25 3*s.* 4*d* in 1860, to £13 1*s.* 2*d.* in 1891.

American wools have necessarily sympathized with this universal decline in prices. But a careful comparison of prices shows that the wool tariff has kept the price of domestic wool above the level of foreign wool, by nearly the full amount of the duty; and it has been potent in protecting our own clip from the unrestricted influx of the surplus of the foreign supply. American merino wool has only declined about 10 per cent, while merino wool in the world's markets has declined 25 per cent; the law of 1890 has thus saved American growers from the full effects of the depression elsewhere. But for that barrier, the promising sheep ranches of our Western States would long since have disappeared, and the sheep industry of the United States have fallen back into a purely mutton supply. The moment that barrier is removed the extinction of our flocks will follow with startling rapidity.

In support of this assertion it is only necessary to refer to the effect of tariff legislation upon our wool-growing industry during the last twenty-five years. In 1867 increased protection was accorded to this interest, and under its stimulating influence our flocks increased from 31,851,000 in 1871, to 50,360,243 in 1885; and we have every reason to believe this increase would have continued but for the unfortunate legislation of 1883. By the act of 1883 duties were reduced, and, as a consequence, coupled with the open menace to the industry, under the administration of President Cleveland, our flocks were reduced by the 1st of January, 1889, to 42,599,079, a loss of nearly 8,000,000 sheep in four years. By the act of 1890 increased protection was accorded the domestic wool-growers, and the beneficent influence of this act is already noticeable in the increase of our flocks from 43,431,136, January 1, 1891, to 44,938,365, January 1, 1892, a gain of 1,507,229 sheep in a single year.

We submit the following table from the Department of Agriculture in confirmation of the foregoing statements, showing the increase of our flocks under the tariff of 1867 and the decrease under the act of 1883:

Years.	Sheep.		Wool, pounds.
	Number.	Value.	
1871	31,851,000	$74,035,837	160,000,000
1872	31,679,300	88,771,197	150,000,000
1873	33,002,400	97,922,350	158,000,000
1874	33,958,200	88,690,569	170,000,000
1875	33,783,600	94,32[illegible],652	181,000,000
1876	35,935,300	93,666,318	192,000,000
1877	35,804,200	80,832,683	200,000,000
1878	35,740,500	80,603,062	208,250,000
1879	38,123,800	79,023,984	211,000,000
1880	40,765,900	90,230,537	232,500,000
1881	43,569,899	104,070,861	240,000,000
1882	45,016,224	106,595,954	272,000,000
1883	49,237,291	124,365,835	290,000,000
1884	50,626,626	119,902,706	300,000,000
January, 1885	50,360,243	107,960,650	308,000,000
January, 1886	48,322,331	92,443,867	302,000,000
January, 1887	44,759,314	89,872,839	285,000,000
January, 1888	43,544,755	89,279,926	269,000,000
January, 1889	42,599,079	90,640,369	265,000,000
January, 1890	44,336,072	100,659,761	276,000,000
January, 1891	43,431,126	108,397,447	285,000,000
January, 1892	44,938,365	116,121,270	.....

The true measure of the growth of the wool industry is not, however, the number of the sheep, but the weight of the fleece. In 1860 the average weight of the American fleece was 2.68 pounds; and it has steadily increased from year to year until it reached 6 pounds in 1891.

NUMBER AND VALUE OF SHEEP IN 1892.

We also submit the following table from the report of the statistician of the Agricultural Department, showing by States and Territories the number and value of our flocks on the 1st day of January, 1892.

States and Territories.	Number.	Average price.	Value.
Maine	569,577	$3.01	$1,717,274
New Hampshire	188,678	2.87	540,751
Vermont	358,274	3.29	1,179,725
Massachusetts	57,644	3.89	223,947
Rhode Island	20,433	4.35	88,884
Connecticut	47,199	4.08	192,454
New York	1,421,455	3.80	5,401,529
New Jersey	102,077	4.05	413,922
Pennsylvania	1,091,477	3.83	4,178,173
Delaware	22,967	3.87	88,768
Maryland	164,680	3.91	644,558
Virginia	449,009	3.05	1,370,016
North Carolina	390,261	1.82	710,275
South Carolina	89,073	1.89	167,903
Georgia	383,017	1.76	673,966
Florida	117,028	2.06	241,499
Alabama	269,292	1.65	443,927
Mississippi	223,578	1.50	335,367
Louisiana	118,488	1.61	191,240
Texas	5,040,175	1.55	7,808,239
Arkansas	264,094	1.50	396,537
Tennessee	506,007	2.19	1,105,879
West Virginia	529,204	3.11	1,646,354
Kentucky	773,336	3.18	2,456,889
Ohio	4,468,087	3.30	14,724,581
Michigan	2,353,779	3.21	7,560,338
Indiana	1,161,702	3.70	4,298,762

Number and value of sheep—Continued.

States and Territories.	Number.	Average price.	Value.
Illinois	848,092	$3.57	$3,025,314
Wisconsin	907,708	2.96	2,688,630
Minnesota	357,101	2.80	998,598
Iowa	565,031	3.42	1,933,084
Missouri	916,623	2.57	2,355,262
Kansas	469,433	2.34	1,096,595
Nebraska	269,804	2.56	690,887
California	4,083,541	2.42	9,884,211
Oregon	2,456,077	2.24	5,491,789
Nevada	504,710	2.49	1,256,223
Colorado	1,710,395	2.49	4,263,673
Arizona	611,452	2.30	1,406,340
North Dakota	320,000	3.22	1,030,400
South Dakota	270,000	3.08	831,060
Idaho	527,077	2.40	1,264,985
Montana	2,089,337	2.50	5,228,566
New Mexico	2,967,480	1.54	4,556,566
Utah	2,055,900	2.26	4,650,466
Washington	686,521	2.71	1,858,824
Wyoming	1,141,492	2.46	2,808,070
Total	44,938,365	2.58	116,121,270

This average value of $2.58 per head is the largest in the history of the United States.

It is conceded that wool can be grown in Australia more cheaply than in those sections of the United States from which our present supply comes It follows that competition can not be carried on on equal terms.

The abolition of our wool duty would be the immediate incentive to a further increase in the Australasian flocks. Within a year or two, the increase there and elsewhere, directly due to the passage of this bill, would be sufficient to deprive the American grower of any market at prices with which it would be possible to compete.

The United States now raises nearly one-sixth of the world's supply of wool. The rapid obliteration of the American product would no sooner have been effected than its results would be seen in the prices of foreign wools, which would necessarily so advance that in the end the American people would get their wool no cheaper than at present.

They would, on the other hand, have rendered themselves wholly dependent upon foreign supply, and they would have wiped from the face of the continent a great industry, which adds millions to our wealth, employs many thousands of our people, and adds an important diversification to our agricultural industry.

This, we say, is the inevitable and only effect of this bill. It does not mean cheaper wool for the masses, but it does mean the wiping out of great properties, the curtailment of our industrial resources, and is a savage blow aimed at our agriculturists, without the prospect of compensating benefits in any quarter. Something is due from Congress to agriculture. It is entitled to at least as good treatment as is accorded our manufacturing and commercial interests.

THE MAJORITY INCONSISTENT.

It is impossible to determine from the report of the majority what effect on the price of wool it anticipates from the enactment of its bill. It declares that "the American wool-growers do not receive any adequate increase in the prices of their wool by reason of the tariff;" that the tariff instead of making domestic wool dearer has made it cheaper.

At the same time the majority declares that its bill would give the domestic manufacturer cheaper raw material, and consequently the consumers cheaper woolen goods.

These diverse and contradictory statements of the majority can not be reconciled. They argue in the same breath that the wool tariff makes wool cheaper for the farmer and dearer for the manufacturer.

They seek to reconcile both interests to their measure, and in so doing they destroy their own elaborate reasoning in both directions.

If they would remove the duty to cheapen wool to the manufacturer, then they injure the farmer. If they would remove the duty to increase the price to the farmer, then they injure the manufacturer. Political exigency seems to require that both the farmer and the manufacturer shall be deceived.

INCREASED PER CAPITA CONSUMPTION OF WOOL.

The statement of the majority that the existing tariff on wool and woolens has operated to restrict the consumption of wool by the people of the United States and induce the use of shoddy is completely refuted by the statistics.

The per capita wool consumption of our people has been regularly and rapidly increasing since this system was adopted, until this per capita consumption is to-day more than double what it was in 1840. We annex a table showing what it has been in these years:

Comparative per capita consumption of wool in the United States.

Year.	Imports of wool.	Home production of wool preceding year.	Total imports and home production of wool.	Imports of wool manufactures, allowing 3 pounds of wool to the $1 in value.	Total consumption.	Per capita consumption of raw wool.
	Pounds.	*Pounds.*	*Pounds.*	*Pounds.*	*Pounds.*	*Pounds.*
1840	9,898,740	35,802,114	45,700,854	31,095,276	76,796,130	$4\frac{48}{100}$
1850	18,695,294	52,516,969	71,212,263	58,178,613	129,390,876	$5\frac{44}{100}$
1860	26,282,955	60,264,913	86,547,868	128,497,923	215,045,791	$6\frac{44}{100}$
1870	38,634,637	162,000,000	200,634,067	105,289,422	305,923,489	$7\frac{34}{100}$
1880	99,372,440	232,500,000	331,872,440	95,503,641	427,376,081	$8\frac{44}{100}$
1890	109,902,106	295,779,479	405,681,585	162,496,269	568,177,854	$9\frac{7}{100}$

* In estimating the quantity of raw wool contained in imported woolen goods it is customary to allow 3 pounds of wool to each $1 in value.

As against this per capita consumption of 9.07 pounds in the United States that of Great Britain does not exceed 6.9 pounds, and there is no other European country which approaches England in this respect.

To measure the full force of our advantage, let it be added that the American people, comprising less than one-sixteenth of the population of the globe, consume nearly one-third of all the wool grown upon it.

It is urged by the majority of the committee that the attempt by protection to secure an adequate domestic wool supply has failed.

This statement we deny. The domestic supply of wool has increased in nearly the same ratio as the domestic supply of manufactured woolen goods. In 1860, the domestic clip was 60,264,000 pounds, and our manufacturers consumed 85,334,000 pounds, so that 30 per cent of their consumption was imported wool. In 1890 the domestic wool supply, as estimated by the Department of Agriculture, was 276,000,000 pounds, and according to the commercial estimates much larger. The wool im-

ported in that year was 102,918,000 pounds, or about the same per cent as in 1860. Of these imports, 80,000,000 pounds, or nearly 75 per cent of the total imports, were of carpet wools, for use in a great manufacture which has largely grown up, through adequate tariff protection, since 1860. It follows that the imports of clothing and combing wools, used in our domestic cloth manufacture, have increased but a few million pounds, while the domestic production has more than quadrupled in that period.

Until the new tariff act of 1890, fully one-sixth of the woolen goods worn by the American people were of foreign manufacture. The wool growers therefore came much nearer to supplying the total demand, under the old law, than did the woolen manufacturers. On the argument which calls the protection of one branch of this twin industry a failure, we must call the other branch a failure as well.

DOUBLE DISCRIMINATION AGAINST DOMESTIC WOOL GROWERS.

This bill proposes a double discrimination against the domestic woo industry, so sweeping in its character as to reveal the purpose to exterminate it in the quickest and most effectual manner.

The immediate effect of a law admitting scoured wool free would be to reduce to the minimum the quantity of greasy wool imported and increase to the maximum the imports of scoured wool. It is evident that by importing his wools either washed or scoured the manufacturer can save from 50 to 75 per cent of his freight charges, according to the degree of the shrinkage. That is a large item; and it is plain that as time passed the tendency to import scoured wool would rapidly increase. Not only would there be this large saving in freights, but another saving, even greater, in the cost of scouring the wool, on account of the difference in wages.

To understand the full effect of this upon the domestic clip, it must be remembered that the great bulk of this clip reaches the market in an unwashed condition, and in the nature of things must continue to do so. It must not only pay freights upon the wool, but upon the grease and dirt it contains. Rail freights are higher than ocean freights.

The freight cost of landing foreign scoured wool in the leading wool markets of the United States would actually be less than the freight cost of landing greasy American wool in the same markets. In a word, the American producer would not only have to compete with the foreign producer at the prices determined by the value of the surplus foreign supply, but he would be obliged to pay in addition larger freights than the latter. This fact would almost destroy the Atlantic seaboard market for domestic wool.

The bill therefore may be characterized as one not only to destroy our domestic wool industry at a blow, but also to build up, on British soil, a new and important industry to supply the United States with scoured wool at the expense of the large class now engaged in the occupations of wool-sorting and wool-scouring.

Every feature of the bill operates in the same way. Noils are placed upon the free list. Noils are the short fibers of scoured wool thrown out by the combing machine in the preparatory processes of the worsted-yarn manufacture. Although of no service to that particular branch of the industry, they are equal, for other purposes, to the finest grades of scoured wool, and are especially prized and sought for in the manufacture of hosiery yarns. The effect of their free admission would be to

entirely destroy the demand for domestic wool in this branch of the industry.

The same is true of the great variety of other wastes which the bill makes free. Although they are the wastes of one branch of the industry, they are the partially manufactured materials of other branches. There is an excessive supply of all of them produced in England, and their sale in the United States would at once become a source of immense profit to the British manufacturers.

It is not alone the foreign wool clip that the majority proposes to admit to overwhelm our domestic wool-growers, but every variety of foreign wastes which by any ingenuity in the use of machinery can be made to take the place of wool.

There is a provision here that shoddy, and wastes advanced by labor or machinery beyond the original condition, shall pay a duty of 25 per cent. It is difficult to understand the theory upon which this provision has been introduced. It is certainly a confession by the majority that there is danger of an influx of foreign wastes and deteriorated materials. But the bill is absolutely no guard against this. All these wastes will simply come in in their "original condition." Shoddy is but one form of them, one of dozens of forms of the same thing, for which the doors are opened wide. Rags and flocks and refuse of every description, the use of which is detrimental to the quality of the manufacture, are welcomed here from all quarters of the globe.

A PREMIUM UPON SHODDY.

The majority intimates that the effect of the present law is to stimulate the use of shoddy, wastes, and other substitutes for wool in our manufacture. It presents elaborate statistics from the census, showing the quantities of shoddy, cotton, and other adulterants employed in the woolen manufacture. It refrains from presenting other statistics, equally available, which show that these adulterants are employed in the woolen manufacture of other countries, and particularly in Great Britain, into which country are imported every year from 60,000,000 to 75,000,000 pounds of foreign rags, to be converted into woolen goods, together with the very much larger quantity of English rags which are annually utilized in the same way. The minority does not defend the use of shoddy; and it emphatically denies the statement that its use is stimulated by the duty on wool, a statement which falls in the face of the fact that free-trade England, which has been appropriately called the birthplace of shoddy, annually consumes a vastly greater relative quantity of this adulterant than the United States. Under the present law the use of wool substitutes is confined wholly to such as we produce in our own country. Under the law as it is proposed to make it, the United States will become the dumping ground for all the worthless refuse of the world.

With the insufficient duties this bill proposes on goods it would no longer be possible for our manufacturers to compete with England, France, Germany, and Belgium, in the manufacture of fine all-wool goods, upon which the labor cost is excessive as compared with the labor cost in these cheap adulterated goods. By every known expedient they would thereafter be compelled to cheapen their products or to abandon their business.

The scheme of the majority, taken as a whole, is one to convert the woolen manufacture of the United States into a shoddy manufacture, as rags from which shoddy is made are to be admitted free of duty.

THE PROPOSED DUTIES ON WOOLEN GOODS.

That portion of the bill which relates to manufactured goods singles out a particular manufacture—the most important of the textile industries in the value of its products—for an assault from which the remainder are spared. All manufactures of cotton and of silk are left with an average protection of not less than 50 per cent, yet it is not disputed that the woolen industry, by reason of the greater number of processes and the greater labor cost of manufacture, requires more protection than these others. This violent discrimination against a particular manufacture is indefensible on any ground, and its injustice alone condemns it.

The suddenness of the blow aimed at this single manufacture is softened, according to the majority report, by the boon of free wool. What a snare and delusion this boon is, can be realized from the fact that the woolen duties are reduced far below those found necessary in cotton and silk industries, both with free raw materials, and the further fact that no duties are disturbed upon any of the other materials necessary to the wool manufacture. Machinery, much of which must be imported, is left dutiable at 45 per cent; no change is made in the dyestuffs duties, and even cotton-warp yarns, essential to large and important branches of the wool industry, such as dress goods for the million, remain subject to a greater duty than the finished textiles for which they are intended. The absurdities and incongruities which the bill would thus introduce into the law are as marked as its injustice. If it was especially intended to cripple and embarrass woolen manufacturers, especially those producing the better grades of goods, it could not have been more cunningly devised.

No tariff schedule as complicated as this one, covering half a dozen great industries in no way related to each other except as they use the same raw material, can be constructed without the utmost care and study, accompanied by exact knowledge of all the conditions surrounding each particular branch. The present law was so constructed, after prolonged investigations among experienced men. Even those now seeking to destroy it admit it is the most scientific wool and woolens tariff ever enacted by Congress. The present bill has been hastily framed in secret conclaves of men possessing no knowledge of the conditions of manufacturing, or with knowledge confined to a single primitive branch of the industry. No man, however familiar with one of those branches, can know the needs and conditions of other branches or has any right, however reluctantly, to assent to wholesale tariff changes which mean ruin to others, while perhaps not to him.

The duties on woolen and worsted yarns are fixed at a uniform rate of 35 per cent ad valorem. It may be presumed that this rate is the lowest the majority dared to fix, without risking a sudden extinction of the manufacture of yarns in this country. Upon the most costly of the fabrics into which these yarns are to enter the bill provides an additional duty of but 5 per cent.

The processes of manufacture from the yarn to the fabric are wholly with labor and machinery—no additional material enters into them. These processes are numerous and complicated—beaming, weaving, dyeing, and finishing—and upon all the labor thus involved the majority proposes to allow an additional duty of but 5 per cent, to offset differences in wages which, particularly in the more delicate operations

of finishing, are double those of England, and much higher, when compared with continental wages. The manufacture of expensive woolen and worsted cloths out of imported yarns is completely prohibited by the bill.

THE CLOTHING INDUSTRY.

Again, the bill allows a difference of but 5 per cent between the duty on the cloth and the duty on that cloth when converted into clothing for men's and women's wear. Thus it proposes to destroy the wholesale clothing manufacture of the United States, an industry which has grown to enormous proportions in the last twenty-five years, and is one of the most extraordinary and gratifying results of the protective tariff.

From the cloth and the trimmings, to the suit of clothes, the expense is almost wholly confined to labor, and upon this added labor cost of transforming the fabric into the garment the bill allows an increased ad valorem duty of 5 per cent. Assuming the correctness of the basis of the bill, the incongruity is so plain as to only need to be stated.

When, therefore, we consider the extra cost of the labor in converting the yarn into cloth and the cloth into clothing, this bill presents conditions under which foreign-made cloth, cut and stitched by foreign labor, will necessarily be introduced into the United States in constantly increasing volume.

THE NECESSITY OF THE SPECIFIC FORM OF DUTY.

Another feature of the bill must excite the gravest apprehension among all friends of American industry, viz, the total abandonment of any form of specific duty upon manufactured goods.

The existing specific duties in the woolen schedule are compensatory in their character, and are imposed to make the manufacturer whole for the duties upon wool. But the specific form was only applied to the compensatory duties, because, the wool duty being specific, it was more easily and accurately adjusted to the compensatory purpose. If the element of compensation had not existed in this schedule, if it had been a schedule admitting of a single instead of a compound duty, that single duty would have been made a specific duty. Experience has conclusively shown that only under the specific form of duty can the full measure of the protection intended by Congress be secured, and the full amount of duties due to the Government be collected. This is the reason why the compound system of duties is applied to the cotton schedule, where specific and ad valorem duties are frequently and properly levied, although there is no tariff on the raw material.

The late Secretary Manning, in his report on the revision of the tariff, dated February 16, 1886, well stated the reason why this is so in the following words:

> Perhaps the chief advantage of a specific over an ad valorem system is the fact that under the former duties are levied by a positive test, which can be applied by our officers while the merchandise is in possession of the Government, and according to a standard which is altogether national and domestic. * * * Under an ad valorem system the facts to which the ad valorem rate is to be applied must be gathered in places many thousands of miles away and under circumstances most unfavorable to justice.

Secretary Manning's reasoning is that protective duties, to be effective must be specific in form. So long as the wool manufacture has the protection involved in specific rates, which serve as a check for the proper administration of the ad valorem duties, it makes no difference at which point in the schedule the specific duties are applied. They contain a most important and indispensable element of protection, in that they *are* specific, and can always be properly assessed and collected. While they are compensatory in character, they have the only true form of a protective duty.

In a word, the reductions proposed by the majority in the duties on goods are much greater than appears on the face. They not only reduce the amount of duty, but eliminate altogether its most effective form. They subject the whole industry of the United States to the dry rot of persistent and systematic undervaluations, which the existing administrative law has been unable to eradicate, even with the check of specific duties to aid its administration. We say, therefore, that the majority of the committee can have no conception of the effect of its bill upon this industry. It has presented a measure under which the wool manufacture of the United States can not develop, and can not possibly hold itself in its present advanced position. Under this bill the industry will inevitably shrink into a mere manufacture of the simplest, coarsest, and cheapest fabrics, requiring the least amount of labor, such as flannels, blankets, and satinets, at which stage of progress the woolen industry was found in 1861.

THE EXTINCTION OF NEW AND HIGHER FORMS OF INDUSTRY.

The first result of its enactment would necessarily be upon the higher and finer forms of the industry. One purpose of the present law was to create a larger diversification and specialization in the wool manufacture. Some of the particular forms it was intended to foster were the all-wool dress goods, in which it was recognized that our people would have to compete with the French, whose labor is paid so much less than our own, and who have acquired a peculiar dexterity in this particular line from generations of experience. This manufacture has been successfully established here, with promise of rapid and enormous development. The same may be said of the manufacture of plushes, which has extended, under the present law, with unexpected promptness and undoubted success. These industries are thus possible here; but the majority proposes to abandon them.

These are goods for the rich only, for people who can afford to indulge in luxuries. The question of cheaper clothing for the masses is not here involved.

Indeed, the majority has framed its bill with no regard for the poor man, but chiefly to facilitate the importation of the finer and more expensive cloths.

It groups all grades of cloth, the cheapest and the most expensive, under one uniform rate of 40 per cent. It increases the ad valorem rate of the present law upon the cheaper fabrics and decreases it upon the finer fabrics. "The poor man's clothing" is subjected to the same rate of duty as the rich man's. This 40 per cent duty is probably high enough to prevent any marked increase in the imports of the cheapest fabrics. It is to be no gain, therefore, to the poor man; but upon the finer goods, where the labor cost of manufacture rapidly in-

creases, the duty will prove no obstacle to importations, and these branches of the industry will henceforth be carried on under conditions which must lead to their extinction among us.

THE AMOUNT OF PROTECTION LESS, NOT MORE.

The rates of duty proposed are a close approach to a purely revenue tariff. The talk about "war taxes" in peace times ignores the changed conditions which thirty years of industrial progress have introduced in manufacturing throughout the world.

An ad valorem rate of duty is high or low, according to the cost of the article to which it is applied. As that cost recedes the same ad valorem rate becomes less and less, in the degree of protection it affords. An ad valorem rate of 25 per cent during the war, when all values were high, was effective to bring more revenue and to afford more protection than an ad valorem rate of 50 per cent to-day, when values are lower than they have permanently been at any previous time. The evidence of this truth is the steady decline in the unit of value in imported merchandise.

For protective purposes the ad valorem rates of the present law are no greater, nor, indeed, as great as those which existed during the war.

The ad valorem rates of 35 and 40 per cent, established in the law of 1883, yielded over 14 per cent more protection by reason of the higher unit of value than the same rates yielded at the time of the passage of the present law.

The lower the price of an article falls the higher becomes the ad valorem rate necessary to protect the labor represented in that article.

Ignoring these facts, the majority proposes rates of duty on woolen goods which are made, by reason of them, relatively lower than the corresponding rates have been under any tariff law ever passed by Congress—not even excepting those of the Walker tariff of 1846, and its twin of 1857. In so doing, the majority does not deny that it contemplates an operation of the law under which the increase in imports will be sufficient to make good the loss of revenue resulting from the repeal of the wool duties and the reduction in the duties on goods.

EFFECT ON THE REVENUES.

In this respect, at least, we believe the conclusions of the majority are correct.

The amount of duties collected on wool and woolen goods from July 1, 1890, to July 1, 1891, was $41,426,981.76. On the same quantity and value of imports, under the bill we are considering, the amount of duties collected would be $16,575,262.36, a reduction of $24,834,457.90, as shown by the following comparative table:

Statement giving the revenues under Schedule K, by existing law, and the duty and amount of reduction of the revenue by House bill 6007, importations being the same.

TREASURY DEPARTMENT, BUREAU OF STATISTICS,
February 23, 1892.

	Importations, fiscal year 1891.		Estimated duty under proposed law.	Amount of decrease of revenue.
	Values.	Duty collected.		
Paragraph:	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*
384. Class I and II, wools	6,025,452.36	2,867,492.24	.....	2,867,492.24
	1,640,262.48	762,742.99	.....	762,742.99
385. Class III, wools	9,404,467.94	2,922,632.41	.....	2,922,032.41
388. Noils, shoddy, top waste, etc.	560,007.00	206,527.50	.....	206,527.50
389. Woolen rags, mungo, and flocks				
391. Woolen and worsted yarns	1,505,754.95	1,141,557.14	614,542.91	527,014.23
392. Woolen or worsted cloths, shawls, etc.	10,831,394.14	13,623,754.51	6,732,557.66	6,891,196.85
393. Blankets, hats of wool, and flannels for underwear	1,772.00	823.88	443.00	380.88
	139,349.13	96,684.86	41,804.74	54,880.12
	304,808.63	232,278.76	106,683.02	125,595.74
394. Women's and children's dress goods, coat linings, Italian cloths	8,821,495.76	6,645,054.04	3,087,523.52	3,557,530.52
395. Women's and children's dress goods, coat linings, Italian cloth, bunting	10,738,493.23	9,971,250.94	4,295,397.29	5,675,853.65
396. Webbings, gorings, suspenders, etc.	370,139.02	300,577.32	148,055.61	152,521.71
396. Clothing, ready-made, etc.	1,292,556.28	942,087.14	581,650.33	360,436.81
	118,183.63	80,654.15	53,182.63	27,471.52
	171,889.55	204,278.36	77,350.30	126,928.06
397. Cloaks, dolmans, etc.	814,676.56	582,860.30	366,604.45	216,255.85
399-408. Carpets	1,564,889.66	829,063.72	469,466.90	359,596.32
Total	60,305,592.32	41,409,720.26	16,575,262.36	24,834,457.90

Amount of duty received in 1891 on articles transferred to the free list $6,758,795.14
Amount of duty received in 1891 on articles on which the duty is reduced from $34,650,925.12 to $16,575,262.36, a reduction of 18,075,662.76

Total reduction 24,834,457.90

S. G. BROCK,
Chief of Bureau.

Hon. J. C. BURROWS,
House of Representatives.

One-fourth of this loss of revenue is due to the repeal of the wool duties, amounting to $6,758,795, and the remainder to the reduced duties on goods. The increased importations of goods necessary to make good the deficiency of revenue thus created, both by the repeal of the wool duties and the reduction of the goods duties, are appalling in their dimensions. The average ad valorem duty of the proposed law is 38.84 per cent. On this basis it would require an increase in the imports of woolen goods, amounting to about $64,000,000 in value, to make good the deficit created by the reduction in rates. In other words, the total imports of woolen goods would have to increase in value from $43,235,409, the value of the imports in 1891, to $106,688,506, in 1893; that is to say, they must increase *about one hundred and fifty per cent* in order to secure an equivalent revenue.

It is not an easy matter to adequately set forth the meaning and the consequences of such an increase in our imports of wool manufactures. It means an importation equal in amount to one-third of the value of the products of all the woolen mills in the United States in 1890. The increase alone would be equal to the total value of all the products of all the woolen mills in the State of Massachusetts, which was our largest wool-manufacturing State in 1880.

THE CONSEQUENCES OF LARGELY INCREASED IMPORTS.

Immediately upon the occurrence of any such increase in imports there must necessarily arise a corresponding shrinkage in the products of the American mills, for which the only available market has thus been destroyed. It is the same thing, therefore, as closing every woolen mill, every worsted mill, every carpet mill, every felt mill, every knit-goods mill in the State of Massachusetts, where one-fourth of the woolen machinery of the country is located; where 45,000 men and women are employed; where nearly 100,000,000 pounds of wool are annually worked up into goods; where $15,642,000 are paid in wages, and where $75,000,000 of capital are invested in the various branches of the industry affected by this bill.

That result would be inevitable, with any such increase in the imports of the goods now being manufactured in the State of Massachusetts. The market for woolen goods is not elastic. It can absorb a certain quantity of these goods each year. According as trade is buoyant or stagnant that quantity will be slightly increased or lessened. In no event can it exceed a normal demand. If that normal demand is met by an excessive supply of foreign-made goods the domestic supply will cease to be made.

When, therefore, the majority of the committee declares that under its bill a vast increase in woolen importations will be accompanied by an increased domestic manufacture, it commits itself to a self-evident absurdity, at variance with the known laws of supply and demand. An excess of supply never increases consumption beyond a limited point. It creates instead a glut of markets, in which the value of the surplus regulates the value of the whole production. In the presence of the glut of woolen goods, which the majority contemplates and welcomes, our domestic woolen manufacture must go to the wall.

When $65,000,000 worth of our clothing now made at home is made abroad, 45,000 people now employed at good wages in making these goods can no longer be employed in that industry. The majority of the committee does not inform us what this army of industrious people is to do hereafter to earn a livelihood, but it must be aware that there is no other field of industry which is not already overcrowded.

As at present organized, there is sufficient machinery capacity in the woolen mills of the country to supply the entire domestic demand for woolen goods, outside the novelties and expensive fabrics imported for the rich.

Fully 10 per cent of our woolen machinery was idle during the census year. The census statistics show, that by reason of the unsatisfactory character of the tariff adjustment of 1883, the woolen manufacture of the United States was in a very depressed condition when the present law was passed. The importations of woolen goods were steadily increasing. The growth of our own population did not suffice to consume the excessive product forced upon our market. General disaster among our woolen mills was apparent. A long series of failures embraced both large and small establishments. Mills burned down were not rebuilt or were converted to other uses. Hundreds of looms stood idle. The explanation of all this was found in the fact that from 1880 to 1889 there had occurred an increase of importations of woolen goods amounting to *sixty per centum.*

THE DRESS GOODS MANUFACTURE.

The dress goods branch of the wool manufacture is the one which furnishes the best illustration of this rapid increase of importations. We may use it in the further exposure of the bill of the majority, because this is the branch which has been singled out for the most merciless slaughter.

A weak point in the woolen schedule of the tariff of 1883 was the dress goods paragraphs. This is shown by the extraordinary importations which took place under them. In the six years from 1884 to 1889, inclusive, 394,455,297 yards and, in addition, under the pound rates, 14,020,628 pounds of dress goods were imported, having a total foreign value of $100,253,247, and representing a production far greater than that of all the American mills during the same length of time.

In 1889 the importations of dress goods, in square yards alone, were 52 per cent larger than in 1884; and the value of the dress goods imported constituted 37½ per cent of the value of the woolen importations of every kind and description. These statistics make it evident that the new rates of duty enacted in 1890 were necessary, if the United States is to reap the advantages of making these goods at home. There exists no reason why we should not make them here, as well as the other textiles covered by this schedule. The old rates of duty compelled our manufacturers of these goods to confine their product almost exclusively to the cheapest forms, leaving the market for the costlier fabrics to foreigners. How well they succeeded with these cheaper fabrics was shown in the testimony of the New York importers before the Senate Finance Committee in the last Congress. In that testimony Mr. F. P. Worrell declared:

> We used to import these cheap grade cotton warp dress goods almost exclusively. To-day we do not get out one piece where formerly we got out thousands of that particular class. We have been driven out of the trade by the American manufacturers.

This shows what protection has done in these cheap dress goods. The present law is rapidly accomplishing the same results in the higher grades. The bill before us has been framed with a special purpose apparently to stop this gratifying development. Under it the enormous importations will at once be resumed, and this great and promising industry relegated back to the primitive stages from which it has been rescued.

THE CHIMERA OF "FOREIGN MARKETS."

The majority of the committee declares that the cheapening of production that will follow free wool will enable American manufacturers,

> within a reasonable time, to sell many grades of woolen goods in foreign markets, thus relieving them from the embarrassment of overproduction and enabling them to take advantage of the world's market. Instead of being limited in their market to the sixty-odd million consumers in this country, they would in a few years' time be able to compete successfully with their foreign rivals in supplying the hundreds of millions of people who patronize the markets of the world.

There is no chimera of the free trader more flimsy and hollow than this one of a foreign market for American-made woolen goods.

Such a market can never be possible to us until we reduce the labor cost in woolen goods to the labor cost of similar goods made by the nations which now possess these markets.

In limited lines of cotton goods it is possible to obtain some foothold, the proportion of labor cost being relatively small, and superior organi-

zation and greater speed in machinery overcoming the disadvantage of higher wages; but in the woolen manufacture these conditions do not and can not exist.

But the greatest error of the majority lies in its extravagant overestimate of the importance of the "world's market" for woolen goods. The total amount of the net importations of woolen goods by all the countries of the globe, excluding our own, does not equal $100,000,000 a year.

The United States in 1890 imported $54,000,000 worth of woolens, foreign value, or about $85,000,000 in duty-paid value; so that that limited portion of the United States market for woolens which up to the enactment of the present law was held by foreigners was nearly equal in volume to the value of all the remaining available markets of all the world.

To hold that market for ourselves is worth far more to us, economically, than would be the opportunity to contest, on equal terms, with England, France, Germany, and Belgium, for the woolen goods markets for which these nations are struggling desperately in order that they may possess an outlet for their surplus products.

They esteem the American market, which the Democratic party proposes to surrender as a free gift to them, worth more than all other markets combined.

It is worth more to us than any other market, and it can be as well supplied by our own as by any other people.

The "open markets" of the world are no longer sufficient to consume the products of the machinery competing for them. There are no such "open markets" into which our trade in woolen goods could be extended under the fiscal policy of the majority.

The protective policy of the United States is now followed, to a greater or less degree, by every important nation, Great Britain alone excepted; and Great Britain is, by the general agreement of her parliamentary committees and her citizens, the chief, and, in fact, the only sufferer from this universal application of the principle of a protective policy.

The proposed abandonment of this policy in the United States in the face of its continuance and extension everywhere else would afford to Great Britain the outlet for her surplus woolen products which she can not otherwise obtain. It would therefore save England from the ultimate consequences of her isolated position at the expense of our own people.

THE STRUGGLE FOR INDUSTRIAL SUPREMACY.

Those who would deliberately shape our fiscal legislation to this end have a purblind vision of the present industrial situation of the world. The four great manufacturing nations, England, France, Germany, and the United States are engaged in a tremendous struggle for industrial supremacy.

England and the United States are in some respects evenly matched. The former has the great advantage of a century and a half the start in mechanical manufacture. She has the advantage of cheaper labor, and of the control of 90 per cent of the carrying trade of the globe. She has the advantage of the control of markets into which she has forced herself at the cannon's mouth, and where she maintains herself by standing armies.

The United States, on the other hand, has the advantage of possessing within herself the finest market of the world; of every variety of soil and

climate, permitting her to produce every important raw material essential to the great manufactures. Our people have an energy, an inventive capacity, an industrial ingenuity, a genius for organization, which no other people can equal.

Under the fiscal policy we defend our advance to the front rank in this great struggle for industrial supremacy has been the phenomenon of civilization. We have been rapidly gaining on Great Britain during the thirty years of the unbroken continuance of this policy. No industry so well demonstrates this progress as the wool manufacture.

In 1860 the British manufacture was consuming 300,000,000 pounds of wool annually, nearly four times as much as our own. In 1890 the British manufacture consumed less than 470,000,000 pounds, or but 15 per cent more than our own. In these thirty years our manufacturing consumption of wool has increased 375 per cent, while that of Great Britain has grown but 57 per cent. No record of growth equal to our own has ever before been witnessed.

A single additional year under the tariff law of 1890 will place us in the van as the greatest wool-manufacturing people on the globe.

At this very moment, with the goal already in sight, the majority of the committee asks Congress to pause, to turn back, to abandon the field. From that policy the undersigned unanimously dissent.

J. C. BURROWS.
T. B. REED.
J. MCKENNA.
S. E. PAYNE.
JOHN DALZELL.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 502.

BINDING TWINE.

MARCH 1, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BRYAN, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany H. R. 6005.]

The Committee on Ways and Means, to which was referred House bill No. 6005, entitled "A bill to place binding twine on the free list," having had the same under consideration, report the same back with the recommendation that it do pass.

This bill has for its object the placing of what is known as binding twine on the free list. The subject-matter of this bill was under consideration during the last Congress. The tariff bill of that Congress, as it passed the House, fixed a rate of 1¼ cents per pound on binding twine. The Senate Finance Committee, to which the bill was referred, reported the same back with the recommendation that a duty be fixed at 1½ cents per pound. When the bill was under consideration in the Senate, the recommendation of the Senate committee was disagreed to, and this item was placed on the free list by a vote of 34 in the affirmative to 24 in the negative. The bill then went to a conference committee, and, as finally passed, the duty was finally fixed at seven-tenths of 1 cent per pound.

Petitions have been received from a number of individuals and organizations asking that this relief be granted to the farmers of the country. The committee is convinced of the justice of the demand. There is a difference between a request that all consumers be subjected to a tax levied for the benefit of some particular industry and a demand from the consumers to be relieved of the burden. While both classes look to their own advantage, they are not equally selfish; for the latter only asks to be let alone, while the former seeks to appropriate to its own use the proceeds of the toil of others. That great industry, agriculture, which lies at the foundation of all others, and upon the welfare of which all the interests of the country so largely depend, has been neglected. It has been discriminated against for the benefit of the protected industries; and the injury has been aggravated by the imposition of useless duties upon a large number of agricultural products, under the pretense that such a tariff would increase the price of such products, although the farmer has been assured that a similar tariff on manufactured articles would reduce the price of the goods he buys.

A large part of the surplus products of the farm must be disposed of in a foreign market, and the price of that surplus fixed by free competition regulates the price of the portion sold at home. If the articles

necessarily used by the farmer in the harvesting of his crops are made dearer for him than for his competitors he must bear the burden alone, for there is no one to whom he can transfer it. The Chief of the Bureau of Statistics has informed the committee that "it is believed that no binding twine has been imported into the United States for several years." The tariff, then, of seven-tenths of 1 cent per pound is prohibitory and brings no revenue whatever to the Government. The tariff on this article, therefore, can not be justified except upon the principle that the taxing power should be used to prevent importations entirely; and that principle, besides being unsupported by constitutional authority, would destroy all income from imports and compel us to look to some other source for the necessary revenues.

The Treasury Department has sent to the committee all the information obtainable in regard to this industry. A letter received by it from a prominent manufacturer states that there are in the United States 35 cordage and binding-twine factories, 29 of which are owned and controlled by the National Cordage Company, of New York. The 29 in the trust, if it may be so termed, produce 60 per cent of the total output. There were produced and consumed in the United States in 1890 50,000 tons of twine, all but 7,000 tons of which were made from foreign-grown fibers. If the seven-tenths of 1 cent per pound is added to the price, as is probable, this tax cost the farmers of the United States in the year 1890 alone $700,000; and this does not include a large additional sum charged for profits on the increased price by the various dealers through whose hands the produce passed. Not one dollar of this large tax reached the Treasury. Surely there can be no excuse for allowing this trust to continue the exaction of this tribute. The raw material from which this twine is made is already on the free list.

All of which is respectfully submitted.

VIEWS OF THE MINORITY.

The undersigned dissent from the views of the majority, and present some of the reasons which induce them to oppose the bill (H. R. 6005) placing binding twine upon the free list.

Under the tariff of 1883 the duty upon binder twine was 2½ cents per pound. The duty upon the raw material, from which it was manufactured, was for manila, 1¼ cents per pound; sun and sisal grass, three-fourths of a cent per pound, and jute, 20 per cent ad valorem, being from one-half to three-fourths of 1 cent per pound.

The Mills bill made these raw materials free and reduced the duty upon binder twine to 25 per cent ad valorem, being about 2 cents per pound at present prices. The tariff act of 1890 makes all these raw materials free, and reduces the duty on binder twine to seven-tenths of 1 cent per pound, which is less than 10 per cent ad valorem.

Binder twine was first introduced in 1878 as a substitute for wire, and at a cost of 17 cents per pound, being a reduction of 40 per cent in the expense to the consumer. The manufacture has steadily increased in this country, and the entire amount of twine consumed has for many years been produced here. The production has reached the aggregate of 50,000 tons per annum. The price had steadily declined to 7½ cents per pound in May, 1891, at which point it remained during the entire year. Latterly the manufacturers have used domestic hemp in the manufacture of binder twine, until in 1890 one-seventh of the entire product was made from this material, and it is believed that the proportion largely increased in 1891.

If it is true, as stated in the report of the majority, that the Senate in 1890 voted to place this article upon the free list, an examination of the debate will show that this vote was induced largely by the assumption that the price was then regulated by a trust and combination formed with a view to force up the price; but this condition of affairs, which was then proven never to have existed, is certainly impossible under the present competition. The majority do not claim that any such combination exists, nor is there any evidence elsewhere of the fact; on the contrary, it appears from the statements submitted by the Bureau of Statistics that the prices during the season of 1891 were so near the actual cost of fiber that binder twine could not be imported without loss, and none was, in fact, imported. Although 60 per cent is produced by the National Cordage Company, of New York, the remaining 40 per cent is manufactured by parties entirely outside of this company and maintaining an active opposition in the market to them.

The majority do not assert that the duty is added to the cost of the twine, but say that this "is probable." It is agreed upon all hands that it requires from 1¼ to 1½ pounds of twine for an acre of grain. So that, if this assumption were true, the entire additional cost would only amount to 1 cent per acre, or less than 1 mill per bushel of grain, yet the saving of this trifling sum is the excuse given by the majority for the removal of this duty. It is an insult to the intelligence of the

American farmer to assume that his good will can be purchased by so trifling a consideration as this. It is evident, however, from the report of the Bureau of Statistics, that nothing has been added to the price during the past year on account of this duty.

It is also evident from the circular of the Belfast Ropework Company (Limited) that to remove the tariff is to transfer the entire industry to other countries. The cost of labor in this country to manufacture this twine is about 2 cents per pound. In Belfast and Dundee the cost of labor is fully 50 per cent less. In Hongkong there are now running American machines manufacturing this twine at a cost of $5 per month for labor. This industry distributed to labor last year the sum of $2,000,000. It is estimated that 10,000 tons of American hemp were used in its manufacture. The manufacture of this twine from American hemp is an industry peculiar to the Western and Northwestern States. The raising of hemp for this purpose is more profitable than that of any cereal. What will it profit the American farmer if the vast army of American workmen now employed in the production of binder twine is driven to adopt agricultural pursuits and the industry transferred to Belfast or Hongkong?

The majority, by implication at least, profess to think that the removal of this duty will relieve the consumer, not of American wheat, but of binder twine; they propose to destroy the business of one class of American citizens for the assumed benefit of another class, and yet on every occasion this same majority are loud in their denunciations of class legislation. The fact is, the removal of this duty would simply benefit foreign producers and foreign consumers of the surplus of American wheat. In the end the farmer would bear whatever burden falls to the American consumer. Destroy the competition of the American manufacturer, and you leave the farmer entirely at the mercy of the foreign producer and the importer.

It is stated by the majority that the price of binder twine is greatly enhanced by the middlemen; add the importer to this class, and the consumer will be taxed by him more than the entire amount of the 10 per cent duty now imposed by law.

But what shall be said of the policy that removes a duty of 10 per cent on binder twine and still exacts a duty of 35 per cent on woolen yarns and of 1½ cents per pound upon other manufactures of twine? Is such a policy dictated by principle, or is it an appeal to selfish interests? Is the fact that a far greater number of voters are dependent upon the manufacture of woolen for a livelihood than upon the manufacture of binder twine of any potency in this matter?

This bill means free trade, pure and simple. Its principles carried out would put upon the free list every item upon the schedule which can be successfully manufactured or produced in this country, and would necessitate a restoration of duties for "revenue only" upon articles which can not be produced here. It would give us England's policy of free trade, and in a few years sink our agricultural interests to the same level with those of Great Britain.

This bill presents a good illustration of the folly of attempting to tinker the tariff by piecemeal; it includes in its exemption from duty binder twine made from jute. The effect of this would be to admit free of duty the large class of jute yarns or twine in advanced state of manufacture, which could be used in all forms of jute bagging, twine, and rope, and which would disarrange the entire manufacture of jute goods in this country. The truth is, the various items in a tariff are so inter-

woven and related one to another that an amendment can not safely be made without a comprehensive view and study of the whole question, proceeding upon some fixed principle of economic law. If free trade is the correct principle, and best suited for the interests of this country, all the tariff schedules should be reviewed with this end in view, that the proper relations might be observed in the proposed enactment.

Because this industry is already established; because the removal of this duty would destroy it, throwing thousands of men out of employment and rendering millions of invested capital useless, and turning $2,000,000 in wages annully to the laborers of other countries; because there is a lively competition which can only be maintained by the present duty which enables manufacturers of American hemp binder twine to prolong their existence; because the destruction of this industry would inevitably increase the price of binder twine, and because we are opposed to free trade, and believe in the protection of American industries, we are opposed to the passage of this bill.

S. E. PAYNE.
T. B. REED.
J. C. BURROWS.
J. MCKENNA.
JOHN DALZELL.

H. Rep. 2——33

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 503.

BAGGING FOR COTTON, ETC.

MARCH 1, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. TURNER, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany H. R. 6006.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 6006) "to admit free of duty bagging for cotton, machinery for manufacturing bagging, cotton ties, and cotton gins," have carefully considered the same, and report it back with a favorable recommendation.

The bill proposes an act of tardy justice to those who contribute the chief item of our export trade. We sent abroad during the twelve months ending December 31, 1891, 5,927,852 bales of cotton, of the aggregate value of $277,038,511.

The concession which this measure contemplates is coincident with the greatest depression which the producers of cotton have suffered in a generation. The time is ripe for some mitigation of their burdens.

Cotton, when sold in the markets of Europe, is subjected to a tare, or deduction, for the bagging and ties. The American price is fixed relatively to the price paid for the cotton abroad. The cost, therefore, of the covering and ties which inclose the lint, is a sacrifice inflicted on the cotton-grower in both the foreign and home markets.

The argument which inveighs against the exemption of ties from duty while the band, iron or steel, from which they are made, is still subject to duty, is without force, under these circumstances. The principle of the drawback applies here in full force. Bagging is covered by the same sort of equity.

The right to resort to imported bagging and ties will, it is confidently believed, protect farmers and laborers engaged in the production of cotton against corners and combinations among those who, under the present tariff, control the supply of these indispensable articles.

The exemption of machinery used in the manufacture of bagging is proposed in this bill, for the benefit of American bagging factories. They already have their raw materials free. An additional reason is suggested by the consideration that, if these very simple machines can be imported free, the farmers themselves can join in the production of bagging. They will thus have in their own hands a final defense against trusts and monopolies. They are still smarting from the oppression which a very recent combination imposed, raising the price of bagging nearly 100 per cent.

The effect of the McKinley rates upon bagging and ties has not yet been fully developed. The first result has been to cut off importations of these articles. The next step will be an augmentation of the price. The trust is always a possible supplement to protection.

VIEWS OF THE MINORITY.

The proposition of the majority is to put upon the free list cotton bagging, machinery for its manufacture, cotton ties, and cotton gins.

No reason exists, in the judgment of the minority, why any one or all of these things should be exempt from duty, but many good reasons exist why they should not.

COTTON BAGGING.

Under the act of 1883 cotton bagging was dutiable at the rate of $1\frac{1}{2}$ and 2 cents per pound; under the act of 1890 the duty is $1\frac{6}{10}$ and $1\frac{8}{10}$ cents per square yard, equivalent to 1 cent per pound. The Mills bill proposed a duty of $\frac{3}{8}$ cent per pound.

The rating by the square yard instead of by the linear yard or by the pound is because the law is simplified, and evasions by making cloth wider than the standard of 45 inches are prevented. Furthermore, while rating by the pound might be fairly protective applied to 2-pound bagging, it is claimed that it would not be so on bagging weighing $1\frac{3}{4}$ or $1\frac{1}{2}$ pounds to the yard.

It is claimed that 2-pound bagging is not only better and more protective of cotton, but also that the farmer makes more money by the use of it. In this country he sells his cotton gross weight, and therefore gets the price of cotton for his baling stuff. In foreign markets the cotton bale is subjected to a 6 per cent tare, and therefore it is for the interest of the farmers to equalize the tare weight as nearly as possible with bagging and ties which cost him less than half the value of cotton.

The act of 1890 transferred jute and jute butts from the dutiable to the free list.

Prior to 1870 the supply of cotton bagging was in large part from importations. Since that time the American manufacture has been sufficient to supply the home market. This manufacture was created by a protective tariff policy, and is dependent upon the same policy for its preservation, because of the difference between the rates of wages paid here and abroad and for other reasons. The Indian mills are operated by coolie labor at a cost of less than 14 cents per day, the Scotch mills and the continental mills at a cost of less than one-half of the wages in our own home mills, which average $1.25 per day. It is perfectly apparent that any reduction of the duty below the protection point would be a serious blow to the laborers of this country employed in this industry.

But low-priced labor is not the only advantage which India possesses in jute manufacture. There the mills buy "loose jute," which is free from dirt and other worthless and weighty substances, and also free from the expense of compressing and baling. Here the mills buy jute in compressed bales, of which 10 per cent in weight is waste, paid for,

however, as jute, whereby the cost of the net fiber is increased. There the jute market is open to all purchasers, and the fiber is bought for silver in rupees, whereas the entire exportation of jute from East India is controlled by five or six powerful concerns, and the fiber is paid for in New York on a gold basis.

There the Calcutta mills are operated in combination and under the control of "The Indian Jute Manufacturers' Association," by means of which extraordinary profits are made in markets which they control, and the surplus production is dumped upon markets where active competition exists. This enables them to work at cost on some articles while averaging a large profit on the entire output.

Only in a fairly protective policy can there be found any safety for the home market against absolute foreign control.

But if labor would suffer, no less would capital by the enactment into law of the measure proposed by the majority.

There are now invested in this industry in this country over eight millions of dollars.

There are sixteen mills in the United States conducting business independently of each other and in full competition. There is no combination to dominate product or fix prices, or for any other purpose, between them. They are—

New York Bagging Company, New York.
Hart Bagging Company, New York.
Todd Bagging Company, Paterson, N. J. [now shut down].
Schultz Bagging Company, Paterson, N.J.
Stevens Bagging Company, Paterson, N. J.
American Manufacturing Company, Brooklyn, N. Y.
Peru Bagging Company, Peru, Ind.
Huntington Bagging Company, Ohio [recently burned].
Louisville Bagging Company, Louisville, Ky.
Columbus Bagging Company, Columbus, Ga.
Eufala Bagging Company, Eufala, Ala.
Galveston Bagging Company, Galveston, Tex.
New Orleans Bagging Company, New Orleans, La.
Charleston Bagging Company, Charleston, S. C.
Ludlow Bagging Company, Ludlow, Mass.
Fort Worth Bagging Company, Texas [removed to Houston].

If the policy of protection heretofore pursued, and under which the cotton-bagging industry has been naturalized in our midst, is to be destroyed, as it will be if this bill becomes a law, some very cogent reason ought to be advanced to justify such destruction. No such reason has been suggested, nor can any such be imagined unless it be a fact that the advantage which we have seen has resulted to labor and capital, is offset by some disadvantage to the consumer.

But the history of this industry is proof patent that the purchaser of cotton bagging has also been a beneficiary under tariff legislation.

Prices of bagging for 1890 and 1891 were lower than ever before in the history of the country. In 1890 2-pound bagging sold (New York market) for 7 cents per yard down to November, when it fell to 6½ cents per yard. In 1891 2-pound bagging sold throughout the year (New York market) from 5¾ cents, minimum, to 6½ maximum, per yard. In St. Louis, 1891, 2-pound bagging all the year was 6¼ to 6½ cents per yard.

Two pound bagging was in—

1872	cts. per yard, maximum	13¼	1878	cts. per yard, maximum	11¼
1873	do	12¾	1879	do	10¼
1874	do	13	1880	do	12
1875	do	12¾	1880 to 1890	cts. per yard, average	9½
1876	do	11¼	1891	do	6½
1877	do	11¼			

The Bureau of Statistics of the Treasury Department furnishes the following:

Statement showing the price of gunny bagging in the New York market for each month of the years 1890 and 1891, and for two months of 1892.

[New York Shipping and Commercial List.]

Months	1890.				1891.				1892.			
	1½ lbs.	1¾ lbs.	2 lbs.	2¼ lbs.	1½ lbs.	1¾ lbs.	2 lbs.	2¼ lbs.	1½ lbs.	1¾ lbs.	2 lbs.	2¼ lbs.
	Cents.	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*
January	6¾	7¼	8	8¾	.....	6	6¾	7½	.....	5½	6	6½
February	6¾	7¼	8	8¾	.....	6	6¾	7½	.....	5½	6	6½
March	6½	7	7¾	8½	.....	5¾	6¼	6¾	.....	.....	.....	.....
April	6¼	6¾	7½	8¼	.....	5¾	6¼	6¾	.....	.....	.....	.....
May	6¼	6¾	7½	8¼	.....	5¾	6¼	6¾	.....	.....	.....	.....
June	5¾	6¼	7	7¾	.....	5¾	6¼	6¾	.....	.....	.....	.....
July	.....	5¾	6¼	6¾	5¾	6¼	7	7¾	.....	.....	.....	.....
August	5½	6½	6¾	7½	.....	5¾	6¼	6¾	.....	.....	.....	.....
September	5½–6	6	6¾	7½	.....	5¾	6¼	6¾	.....	.....	.....	.....
October	6	6½	7¼	8	.....	5¾	6¼	6¾	.....	.....	.....	.....
November	5¾	6¼	7	7¾	.....	5½	6	6½	.....	.....	.....	.....
December	5¾	6¼	7	7¾	.....	5½	6	6½	.....	.....	.....	.....

The policy of protection to the cotton-bagging industry has resulted in building up an American manufacture sufficient in extent to supply the home market, thus benefiting home capital and home labor, and at the same time has lowered prices to the consumer. Why now change that policy?

To drive our own manufacturers from the field is to give the domination of our markets to foreign manufacturers, who will then dictate prices at will.

To encourage home manufacturers is to encourage competition, as experience shows, and thus to reduce prices to a minimum.

Nor is there anything to be feared from combinations, since experience has demonstrated that when these advance prices they do so only temporarily. Advanced prices breed new competition, and this in turn restores the average of cost to the consumer. Besides, free trade in cotton bagging will not prevent combinations, and as between combinations of our own people and those of foreigners, the former are for every reason to be preferred.

COTTON TIES.

Cotton ties are made of hoop or band iron or steel cut to lengths and furnished with a simple device at the ends for securing the tie firmly around a bale. Before the passage of the act of 1890 the production of cotton ties by American works was small and irregular, large quantities being imported. In 1891 the American mills supplied the home demand, only a nominal quantity being imported.

Under the act of 1883 cotton ties were dutiable at 35 per cent ad valorem; the act of 1890 imposes a duty of three-tenths cent additional on hoop, etc., from which they are made.

The measure recommended by the majority proposes to admit them free, but to preserve the duty on "barrel hoops of iron or steel." No reason has been given for making such distinction, and it is as difficult to imagine any, as it is to imagine why either should be put on the free list.

Why a crude article of iron or steel should be subject to duty and a more finished product, of which the crude article is the raw material, should come in free is one of those things difficult to be understood. Such an illogical proposition could only come from the advocates of a policy which would deal in spots with a great measure of legislation, which, whether it be good or bad, is at least built consistently upon a plan. Nothing more mischievous can be conceived, and not even the necessityof making laws for the campaign purposes of the Democratic party, irrespective of the needs of the country, can justify such action.

Nor will the proposed measure result in the admission free of cotton ties only. Under the language of the proposed law, hoop or band iron or steel of any and all sizes, up to the dimensions of wagon tires, and even to the kind of iron or steel that might be made into billets, will come in without payment of duty.

The action of the majority is incapable of justification amongst other reasons, because the effect of the tariff act of 1890 has been—

First. To rehabilitate an American manufacture which the lack of proper protection had largely destroyed, and in which the mills of the country were prepared to embark.

(2) To invite the investment of new capital and the employment of additional labor in an American industry.

(3) To furnish the home market to the extent of its needs with a home-made product in lieu of a foreign, and thus to secure our independence of foreign combinations and dictation as to prices.

(4) To do this at less cost to the consumer than he had to pay before the enactment of the law.

Prior to the passage of the act of 1890 there were in the United States works equipped for the production of hoop and band iron or steel, as follows:

Morrison, Colwell & Page, Troy, N. Y. (Band iron.)
Elmira Iron and Steel Rolling Mill Company, Elmira, N. Y. (Band iron.)
Rome Merchant Iron Mill, Rome, N. Y. (Band iron.)
Troy Steel and Iron Company, Troy, N. Y. (Bands.)
Hughes & Patterson, Philadelphia, Pa. (Bands and hoops.)
Keystone Horseshoe Company, Philadelphia, Pa. (Band and hoop iron.)
Blandon Rolling Mill, Blandon, Pa. (Hoop and band iron.)
Catasauqua Manufacturing Company, Catasauqua, Pa. (Bands.)
Hamburg Rolling Mill, Hamburg, Pa. (Bands and hoops.)
Altoona Iron Company, Altoona, Pa. (Band and hoop iron.)
Hollidaysburg Iron and Nail Company, Hollidaysburg, Pa. (Hoop iron.)
Portage Iron Company, Lim., Duncansville, Pa. (Hoop and band iron.)
Lindsay & McCutcheon, Pittsburg, Pa. (Hoop and band iron.)
P. L. Kimberly & Co., Sharon, Pa. (Hoop and band iron.)
Sharon Iron Company, Lim., Sharon, Pa. (Band and hoop iron and steel.)
Alabama Rolling Mill Company, Birmingham, Ala. (Bands and hoops.)
Shelby Rolling Mill Company, Helena, Ala. (Band iron. Failed in 1890.)
Cleveland Rolling Mill Company, Cleveland, Ohio. (Hoops.)
Haselton Iron Works, Youngstown, Ohio. (Band iron and steel.)
Pomeroy Rolling Mill, Pomeroy, Ohio (idle). (Band and hoop iron.)
Iowa Rolling Mill (now Holcomb-Brown Iron Company), Burlington, Iowa. (Band iron.)

There were also works which, in addition to making band or hoop iron, were equipped for the production of cotton ties, as follows:

Bristol Rolling Mill Company, Bristol, Pa. (Cotton ties.)
J. Painter & Sons Company, Pittsburg, Pa. (Cotton ties.)
William Clark's Son & Co., Pittsburg, Pa. (Cotton ties.)
Rome Cotton Tie Manufacturing Company, Rome, Ga. Mill built and put in suc-

cessful operation by the present company after the passage of the McKinley bill. (Cotton ties.)

Cartwright, McCurdy & Co., Enterprise Iron Works, Youngstown, Ohio. (Cotton ties.)

Youngstown Iron and Steel Company, Youngstown, Ohio. (Cotton ties.)

WORKS BUILT BEFORE THE PASSAGE OF THE ACT OF 1890, WHICH, SINCE ITS PASSAGE, HAVE PREPARED TO MAKE COTTON TIES OR HOOP OR BAND IRON, ARE AS FOLLOWS:

Blandon Iron and Steel Company, Blandon, Pa. (Cotton ties.)
Portage Iron Company, Limited, Duncansville, Pa. (Cotton ties.)
Keystone Rolling Mill Company, Limited, Pittsburg, Pa. (Cotton ties.)
Lindsay & McCutcheon, Allegheny, Pa. (Cotton ties.)
P. L. Kimberly & Co., Sharon, Pa. (Cotton ties.)
Cartwright, McCurdy & Co., Pomeroy Rolling Mill, Pomeroy, Ohio. (Cotton ties.)
Wetherald Rolling Mill Company, Findlay, Ohio. (Band and hoop iron.)

WORKS BUILT AND IN PROCESS OF BUILDING SINCE THE PASSAGE OF THE ACT OF 1890, TO MAKE COTTON TIES, ARE AS FOLLOWS:

Denison Rolling Mill Company, Denison, Tex. (built).
Lone Star Iron Company, Jefferson, Tex. (building).
Texas Iron Rolling Mill, Tyler, Tex. (building).
The Denver Steel Rolling Mill has just been organized at Denver, Colo., to erect a rolling mill, and among its products will be cotton ties.

The benefits that have resulted to the American manufacturer, the American laborer, and the American consumer, from the imposition of the present duty on cotton ties, are very forcibly presented in the testimony of a number of manufacturers, which was given by way of letters to James M. Swank, esq., general manager of the American Iron and Steel Association, and which he has kindly furnished to us. We quote:

In September, 1891, in reply to an inquiry concerning the prices of cotton ties of American manufacture, Messrs. Lindsay & McCutcheon, of Pittsburg, Pa., responded as follows:

Until this season we have not made cotton ties for a number of years. We sold some ties in June as low as $1.12½ per bundle, cash, Pittsburg. In July and August the price has ranged from $1.18 per bundle, carload lots, to $1.22 per bundle for small orders, cash, Pittsburg, which is the price at the present time. Our ties are Standard Arrow, average weight 50 pounds to bundle, containing 30 pieces, each 11 feet long; also 30 buckles.

The Bristol Rolling Mill Company, of Bristol, Pa., wrote upon the same subject in September, 1891, as follows:

Pending action on the McKinley bill, the importers were afraid to order out cotton ties early in the season, and consequently orders were placed with American mills in 1890, beginning with the month of June. As action was delayed in the Senate importations began and reached the aggregate of 800,000 bundles, or 20,000 net tons, between June and October, and supplying a large part of what was needed to tie the cotton crop of 1890. As soon as the tariff began prices stiffened about 5 per cent, as much by demand as by the operation of the tariff. In 1891, on account of heavy quantities of cotton held over and the financial depression, as well as a shorter crop, the demand has been lagging and prices expected have not been realized.

In February 1892, the Bristol Rolling Mill Company gives the prices, at mill, of standard iron Arrow cotton ties from June, 1890, to February,

1892, in the following table of prices. The prices are for a bundle of 50 pounds:

Prices of American cotton ties.

1890.	Per bundle.		Per bundle.
June	$1.10	March, April, May, and June	No sales.
July	1.12	July	$1.22½
August	1.12	August	1.20
September	1.12	September	1.18
October	1.17½	October	1.15
November	1.20	November	1.12
December	1.20	December	1.10

1891.		1892.	
January	No sales.	January (out of season)	1.07½
February (out of season)	1.10	February (out of season)	No sales

J. Painter & Sons Company, of Pittsburg, Pa., under date of February 22, 1892, wrote as follows:

A bundle of Standard Arrow cotton ties weighs 50 pounds, and the prices of the same the past season was fully 5 cents per bundle less than in the years 1889 and 1890, before the McKinley bill became a law. Of course all the ties were made in this country in 1891, and the competition was so fierce among the American mills that there was positively no advance in price, and, as we have stated above, the price was less. It thus plainly appears that the bill did not make ties dearer to the Southern planter, but really benefited him.

Under date of February 26, 1892, Messrs. J. Painter & Sons Company, of Pittsburg, Pa., sent the following additional information concerning the prices of cotton ties in this country during 1889, 1890, and 1891:

Before the passage of the McKinley act there were only about 400,000 bundles, or 10,000 net tons, manufactured in the United States, or about one-fourth of the requirements. After the passage of the above bill the manufacture of ties was stimulated in Ohio, Pennsylvania, Indiana, Georgia, Tennessee, and Texas, and from careful figures we believe that over 1,600,000 bundles or 40,000 net tons, were made in 1891, which aided in giving employment to fully 11,000 men.

As to prices, we have gone over our books and find that the average price at our mill for Standard Arrow cotton-ties was, in—

	Per bundle.
1889	$1.18
1890	1.16½
1891	1.09¾

To arrive at cost to the interior points freight must be added.

Although the American mills had but a short time in which to prepare for the manufacture of ties, still no market suffered a shortage, and quite a number of ties have been carried over for use next season. This active competition, which always follows a protective act, has brought the margin of profit down to a very low point, but with the improvements in manufacture we believe that the American mills, under continued protection, will be able to give the South a better tie and at a lower price than ever could be had from England.

Messrs. Cartwright, McCurdy & Co., of Youngstown, Ohio, under date of February 22, 1892, write as follows:

Our records show that the price of cotton ties in 1889 was from 90 to 92½ cents per bundle. In 1890, before the passage of the McKinley bill, the average price of ties was $1.10 per bundle. These prices were free on board, our mill, each bundle weighing 50 pounds.

Messrs. William Clark's Son & Co., of Pittsburg, Pa., wrote as follows on February 23, 1892:

It is very difficult from the data at hand to give you accurately the ruling prices of cotton ties at any certain point, as some of our advices name figures at the seaboard, while others are for interior points. Correct information regarding freight rates would be essential to refer all our figures to one place, but this we do not pos

sess, since we were only interested at the time in delivered prices. You will probably find our communication sufficiently concise to show the general trend of the market, however.

As New Orleans was the principal port of entry for the territory in which we operate largely, we have aimed to base all figures on that point, as far as possible.

The year 1889 opened with a stock on hand at New Orleans of 50,000 to 75,000 bundles of cotton ties, carried over from the preceding year by one of the importers. The season of 1888 closed with very unfavorable crop conditions, and under these circumstances cotton ties ruled very low during November and December of that year, due to a desire on the part of the importers to close out their stock. In December Standard Arrow ties sold at 95 cents per bundle at New Orleans. Under this state of affairs it was natural that ties should rule low at the opening of 1889. They were offered early in February at 93¼ cents per bundle at New Orleans. During March that price was advanced until $1.08 was reached at the close of the month. This figure was kept in force until the latter part of May, when ties dropped to $1.05 at New Orleans.

Arrow ties ruled at about $1.05 per bundle until about the 1st of August, 1889, when the price advanced to $1.07. At this time imported stocks at Galveston and New Orleans were greatly reduced, and prices would have gone higher, but for the action of the American mills. With the domestic tie acting as a check upon the market, prices continued through the balance of the season at about $1.07 to $1.10 per bundle at New Orleans.

The season of 1890 opened about March 1, with arrow ties selling at $1.15 per bundle at New Orleans. This price was increased about the middle of that month to $1.20 at New Orleans. This figure was maintained through to June 1, with the exception of a short period in May, when a concession of about 2½ cents per bundle was made. Our advices during the balance of the season show the prices ruling at Texas interior points, and, as we have no positive information regarding the cost of delivery from New Orleans, we are unable to give accurately the market price at that port. A close approximation, however, would place the figure at $1.20, f. o. b., at New Orleans during June, July, August, and a part of September. About the middle of the last-named month an advance of five cents per bundle to Texas interior points became effective, and it is presumable an equal rise was noted at New Orleans. The season of 1890 closed with favorable crop conditions and with a supply of cotton ties not over abundant.

There is no disposition among buyers at present to contract for cotton ties, and it is probable, under all the conditions, that very low figures would be necessary to force sales. We know of but one well-authenticated transaction so far this year, the selling price being $1.07½ per bundle at Galveston. The price on this lot would probably have been somewhat less for delivery at New Orleans.

As the domestic tie is largely sold at points of consumption, the price at the port does not rule the market, as was the case when the supply was imported. Under present conditions competition in freight rates from the North makes ties cheaper to the consumer at interior points than under the old régime, with prices the same in both cases at Galveston and New Orleans.

All the figures given above refer to the price per bundle of Standard Arrow ties, weighing 50 pounds per bundle.

The more direct competition of American mills has resulted in a demand for ties far superior to those formerly imported. This is a consideration of great importance to the consumers.

The following table shows the—

Imports of cotton ties in calendar years from 1883 to 1891, inclusive.

Years.	Quantities.	Values.	Years.	Quantities.	Values.
	Gross tons.			*Gross tons.*	
1883 (last six months)	*12,012	$404,040	1888	30,305	$837,750
1884	15,641	516,262	1889	20,815	630,950
1885	18,371	570,263	1890	†15,100	521,451
1886	10,322	288,360	1891	†186	13,358
1887	21,675	600,454			

* Prior to July 1, 1883, the imports of cotton ties were not given separately, but were lumped with manufactures of iron and steel not otherwise provided for.

† In the last three months of 1890 and the whole of the year 1891 the importations of barrel hoops and hoop or band iron or steel, flared, splayed, or punched, are included with the importations of cotton ties, so that the foreign value of the cotton ties imported can not be ascertained.

MACHINERY.

With respect to that portion of the bill which enumerates "cards, roving frames, * * * gins," the Chief of the Bureau of Statistics says "there are no provisions in the act of October 1, 1890, corresponding" thereto. "No comparison can therefore be made, nor can it be ascertained how much duty will be remitted by the proposed provision."

No reason has been suggested by the majority for providing one kind of legislation for machinery relating to the cotton industry and another for all other kinds of machinery; and we are satisfied, therefore, to dismiss this part of the bill with the remark only that it is of a piece with what seems to be the mischievous policy of the majority, to deal with tariff legislation in spots and without regard to consistency.

Upon the whole it seems very plain that the legislation recommended by the majority with respect to each and all of the subjects embraced n the pending bill is, to say the least, uncalled for, and that its results would prove detrimental to all American interests and benficial to none.

We therefore protest against the passage of the bill.

JOHN DALZELL.
T. B. REED.
J. C. BURROWS.
J. MCKENNA.
L. E. PAYNE.

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(106)

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 504.

DEFINING THE CRIMES OF MURDER IN THE FIRST AND SECOND DEGREE.

MARCH 2, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. EZRA B. TAYLOR, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 6791.]

The Committee on the Judiciary, to whom was referred House bill 5137, having had the same under consideration, beg leave to report a substitute for said bill, and to recommend the passage of said substitute.

The Federal statutes have recognized no degrees in murder, neither for definition nor punishment. It is unreasonable that this omission should be longer tolerated. Homicide through express, deliberate malice has elements of crime not found in homicide not involving premeditation and deliberate purpose, and should be punished more severely. The substitute reported accomplishes this. Even when all the elements of murder in the first degree exist it is evident that there may be in some cases deeper criminality than in others; hence the bill provides the death penalty or imprisonment for life at hard labor at the discretion of the jury—a system of graded punishment in vogue in many of the States and satisfactory where tried.

The puishment proposed by the bill for murder in the second degree ranges from imprisonment at hard labor from ten years to during life, thus giving a possibility of measuring the punishment by the crime.

The third section of the bill relates to manslaughter, making no great change in the definition of the crime as it exists now, but enlarging the limits of the penalty attached.

Among the many reasons favoring the main purpose of the bill your committee selects those given by the Attorney-General of the United States in his report for 1891, which is as follows:

DEGREES OF MURDER.

I have heretofore called attention to the fact that in most of the States the statutes recognize degrees in the crime of murder, and prescribe corresponding punishment. In the Federal system no such distinction, either in crime or the punishment, is known. The penalty prescribed for murder, whether it be of that atrocity which under the State statutes would be characterized as murder in the first degree, or the lesser offense known as murder in the second degree, is death. The court, in passing sentence upon the verdict, has no discretion, and the only relief where the death penalty ought not to be inflicted is in an application for executive clemency. Moreover juries, knowing that a verdict of guilty necessarily involves the death penalty, naturally refuse to find such a verdict in many cases where they would readily find a verdict of murder in the second degree. It seems to me that this state of things ought to be remedied by statute.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 505.

BOARD OF MANAGERS OF THE NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS.

MARCH 2, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. OUTHWAITE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. Res. 97.]

The Committee on Military Affairs, to whom was referred the annual report of the Board of Managers of the National Home for Disabled Volunteer Soldiers, herewith submit a joint resolution for the appointment of four members of said board to fill vacancies which will occur by reason of the expiration of the terms of four of the present members.

The act creating the National Home for Disabled Volunteer Soldiers was amended in 1866, and the President of the United States, Secretary of War, the Chief Justice of the United States, and nine citizens to be selected by joint resolution of the Senate and House of Representatives, were constituted a board of managers. It was further amended March 2, 1887, so that hereafter the number of managers elected by Congress shall be ten, one of whom shall be a resident of a State or Territory west of the Rocky Mountains. March 3, 1891, the act was again amended so that the number was increased to eleven, at which number it now stands. The term is for six years.

The present members elected by Congress are:

Gen. William J. Sewell, New Jersey	1886–1892
Gen. Martin T. McMahon, New York	1886–1892
Col. John L. Mitchell, Wisconsin	1886–1892
Maj. George H. Bonebrake, California	1891–1892
Maj. Edmund N. Morrill, Kansas	1891–1894
Gen. Alfred L. Pearson, Pennsylvania	1891–1894
Gen. James Barnett, Ohio	1891–1894
Gen. William B. Franklin, Connecticut	1890–1896
Gen. John C. Black, Illinois	1890–1896
Gen. Francis Fessenden, Maine	1890–1896
Col. George W. Steele, Indiana	1890–1896

Homes have been established in the following-named places in the order named:

Central Branch, near Dayton, Ohio	1867
Eastern Branch, near Augusta, Me	1867
Northwestern Branch, near Milwaukee, Wis	1867
Southern Branch, near Hampton, Va	1870
Western Branch, near Leavenworth, Kans	1874
Pacific Branch, near Santa Monica, Cal	1887
Marion Branch, near Marion, Ind	1889

In addition to the above-named branches 13 of the States have established homes of their own, subject to State control and manage-

ment, but in part supported by Congressional appropriation, which appropriations for State homes are subject to certain control of the National Board of Managers.

The number of inmates of these homes have shown a steady increase from their first establishment up to the present time, and will undoubtedly continue to increase with growing age and infirmities of the old veterans of the late war, such increase during the last fiscal year amounting to nearly 8 per cent, the total number cared for in the national homes for the last year being 14,634, and during the year there have been 19,455 inmates cared for at different periods of time.

Each of the several branches, as fast as created, had its "local manager" appointed from the Board, and it has become a settled policy to appoint such local manager, whenever possible, from the State within which the home is located. In this way more minute care is taken of the detail of management and expenditure.

The terms of office of four of the members of the Board—Gen. William J. Sewell, Gen. Martin T. McMahon, Capt. John L. Mitchell, and Maj. George Bonebrake—expire April 21, 1892.

Your committee, believing that these men of distinguished character have carefully aided in guarding the interests of the Government, as well of those of the aged and disabled veterans in these homes, present their names for reappointment, and unanimously recommend that the resolution do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 506.

WAGON ROAD ACROSS A PORTION OF YOSEMITE NATIONAL PARK.

MARCH 2, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. AMERMAN, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 6792.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 5439) granting to the county of Mariposa, in the State of California, the right of way for a wagon road or turnpike across a portion of the Yosemite National Park in said State, have had the same under consideration and report it back with the recommendation that it be laid upon the table, and that the accompanying substitute pass.

The facts as ascertained by the committee are as follows:

The county of Mariposa, in the State of California, previous to the passage by Congress of "An act to set apart certain tracts of land in the State of California as forest reservations," approved ——— 1, 1890, which said reservations have been designated as the Yosemite National Park, voted to appropriate $75,000 to build a free wagon road or turnpike from the county seat of said county to the westerly boundary of the Yosemite Valley grant, as established by Congress in 1864, there to connect with a highway owned by the State of California. The road had also been surveyed and laid out, and contracts let to build the same. The establishment of said park, including territory over which said road was laid out, prevents said county from proceeding with the building thereof.

The Secretary of the Interior, under whose jurisdiction said park has been placed, has expressed a favorable opinion on the merits of the measure, suggesting in connection therewith certain modifications. (Letter of Secretary of the Interior hereto annexed and made part hereof.) These suggestions have been incorporated in the substitute herewith reported.

As the proposed law provides for a free public highway without charge to the Government, to be built by the authority of a county, for use by visitors who desire to see the natural wonders and scenic beauty of the Yosemite Valley, this committee recommends the passage of the substitute for said bill accompanying this report.

DEPARTMENT OF THE INTERIOR,
Washington, February 24, 1892.

SIR: I am in receipt of your reference of House bill No. 5439, entitled "A bill granting to the county of Mariposa, in the State of California, the right of way for a

wagon road or turnpike across a portion of the Yosemite National Park, in said State," and requesting my views thereon.

From what information I can gather this bill seems to be meritorious on account of its furnishing a free road to those desiring to visit this park. As I understand it, all the roads now leading thereto are toll roads, and they have so combined in the interests of each other as to make it burdensome to tourists or others who visit the Yosemite Park.

This bill grants to the county of Mariposa, in the State of California, an easement not exceeding 100 feet in width for about 18 miles. If the promoters of this undertaking have in mind a free highway to the park I do not see why it may not be encouraged. It is perhaps unnecessary to require that all patents through which the road runs should contain a clause subjecting the land entered to the right of way. I do not suppose that any of this land will ever be opened to settlement so that the title may be acquired under the land laws, but if such were the case this easement, being granted prior to the time the land can be entered, the entry would be subject to it without encumbering the records with the condition which is provided for in section 2.

The bill, it seems to me, might be more complete by providing the period of time for which the county might exercise this privilege; also, providing that upon a forfeiture or abandonment thereof at any time the land covered by the right of way should revert to the General Government, if the land over which it ran is kept for park purposes, or, if sold, to the owners of the land through which the road runs or whose property abuts the same.

I furnish plat showing the course and direction of said proposed line of road.

Very respectfully,

GEO. CHANDLER,
Acting Secretary.

Hon. THOS. C. MCRAE,
Chairman Committee on the Public Lands, House of Representatives.

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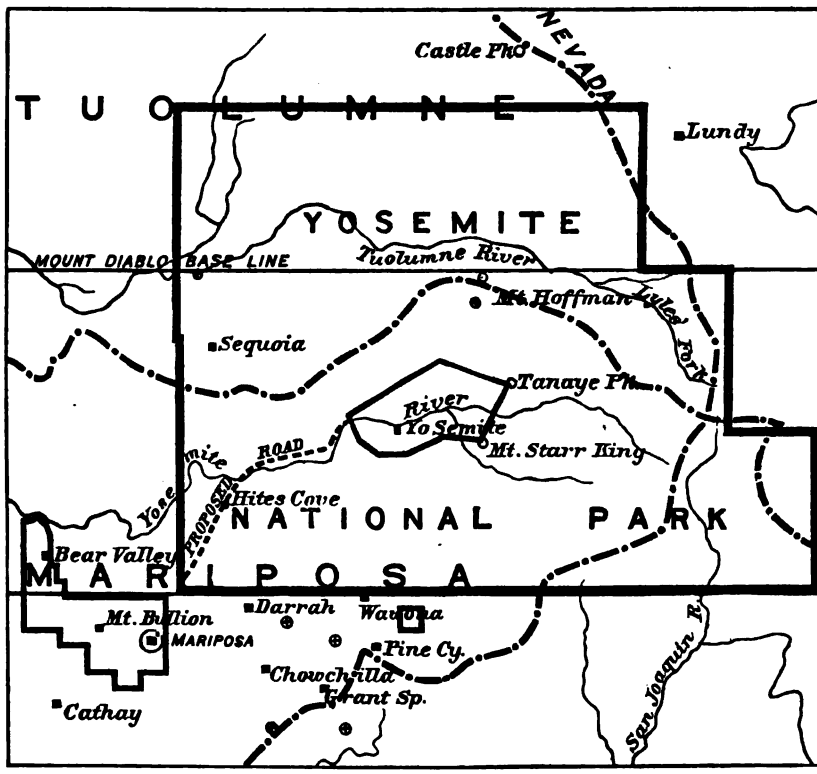
NEVADA
Castle Pks
TUOLUMNE
Lundy
YOSEMITE
MOUNT DIABLO BASE LINE
Tuolumne River
Mt. Hoffman
Tuolumne R.
Sequoia
Tanaye Pk.
River
To Semite
Mt. Starr King
Yosemite
ROAD
PROPOSED
Hites Cove
NATIONAL PARK
Bear Valley
MARIPOSA
Darrah
Wawona
Mt. Bullion
MARIPOSA
Pine Cy.
Chowchilla
Grant Sp.
Cathay
San Joaquin R.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 507.

PORT OF DELIVERY AT COUNCIL BLUFFS, IOWA.

MARCH 2, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WISE, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 128.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 128) to provide for the establishment of a port of delivery at Council Bluffs, Iowa, report the same back with the following amendment, and unanimously recommend that, as amended, the bill do pass.

Strike out all after the enacting clause and insert the words—

That Council Bluffs, in the State of Iowa, be, and hereby is, established as a port of delivery, in the customs collection district of New Orleans, and that a surveyor of customs shall be appointed for said port.

The bill as amended by the report of the committee meets the approval of the Secretary of the Treasury.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 16, 1892.

SIR: At the request of Hon. Thomas Bowman. I have the honor to inform you that I perceive no objection to the passage of House bill No. 128, providing for the establishment of a port of delivery at Council Bluffs, Iowa, if said bill is amended so that it shall read, "That Council Bluffs, in the State of Iowa, be, and hereby is, established as a port of delivery, in the customs collection district of New Orleans, and that a surveyor of customs shall be appointed for said port."

Respectfully, yours,

O. L. SPAULDING,
Acting Secretary.

Hon. GEORGE D. WISE,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 508.

LIFE-SAVING SERVICE.

MARCH 2, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. O'NEILL, of Missouri, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany S. 1775.]

The Committee on Interstate and Foreign Commerce have considered bills H. R. 208 and H. R. 603, each entitled "A bill to amend and re-enact section 5 of an act entitled 'An act to promote the efficiency of the Life-Saving Service and to encourage the saving of life from shipwreck,'" and bill H. R. 272, entitled "A bill to determine and increase the pay of keepers of life-saving and lifeboat stations, and of crews of surfmen employed at the life-saving and lifeboat stations;" also bill H. R. 3969, having the same title as bills H. R. 208 and H. R. 603; also, resolution of the Kentucky legislature and Senate bill 1775.

All these bills have in view the same object, which is to increase the compensation of keepers and crews of life-saving stations. The committee, after carefully looking into the matter, are satisfied of the propriety and necessity of a substantial increase of pay, not only as justly due to the men on account of the exacting and hazardous duties they perform, but also as absolutely necessary to maintain the efficiency of the service, and after due examination of the various propositions contained in the bills above enumerated, have prepared and herewith submit the accompanying amendment as a substitute for Senate bill 1775.

The following is a statement in brief of the considerations which have led the committee to their conclusions:

The keepers of life-saving stations are charged with the care and custody of their stations and of the Government property therein, and on occasions of shipwreck with the protection from plunder and pillage, for considerable periods, of the wrecked vessels with their valuable equipment and cargoes. They must be between the ages of 21 and 45 when appointed—the best portion of a man's life—and must devote the entire year to the service, being required to remain at the stations during both the active and inactive seasons. They must have sufficient education to keep the station journals and property accounts, conduct correspondence, and transact ordinary business.

In the matter of saving life from the perils of the sea the keeper performs by far the most responsible part. He commands the crew, steers the boat, and has absolute control of all the operations. At almost every wreck he has fearfully important questions to decide, and his decision must be made at once, under circumstances requiring the utmost coolness and self-control in the midst of excitement and with human life dependent upon its accuracy.

It is obvious that these officers should be familiar with lifeboats and life-saving appliances, skilled in the surf, and endowed with not only dauntless courage but with unquestionably sound judgment. They should be the very best of their profession. The present rate of pay of keepers of stations where crews are employed is $700 per annum, except in a few special instances where $800 is allowed.

The committee believe that the rate of $1,000 per annum provided in the bill is not too much to secure and retain the services of men thoroughly qualified for these places.

There is a class of stations known as houses of refuge for the keepers of which the compensation provided in the bill is $600 per annum, the sum that is now paid. No change is recommended for the keepers of this class for the reason that the duties with which they are charged are by no means as exacting and responsible as those of the former class. Houses of refuge are located where the shipwrecked are likely to reach the shore in safety, but in need of food, clothing, and attendance. The keeper, besides being the custodian of the public property and of wreckage, is required to patrol the beach in times of danger and to rescue and succor such persons as may be cast ashore in the vicinity.

Crews are not maintained at these stations, and therefore the keepers are not subjected to the extraordinary dangers of boat service in the surf. Nevertheless their duties are often arduous, and their stations are generally so remote from other habitations that their life is a desolate one. It is understood, however, that there is comparatively little difficulty in finding suitable men for these places at the present rates.

The compensation now allowed by law to surfmen is $50 per month during the active season, which, on the Atlantic coast, includes eight months, viz, from September 1 to the 30th of the following April. From this meager sum they must supply their own food and clothing. The rate recommended by the committee is $75 per month during the active season. When the laborious and perilous duties these men are called upon to perform every day are considered, this rate is believed to be as small as with any view to justice can be named.

Besides the daily routine of station life, such as drill with the beach apparatus and with the boats in the surf, which latter is rarely if ever devoid of danger, the surfmen are required to maintain lookout duty during the day and patrol the beach through the night from dark to daybreak in all vicissitudes of weather. The hardships of patrol duty are not likely to be appreciated until one is informed of the difficulties and dangers incident to it. In some cases as many as 12 miles are covered by one man. On some of the beaches the patrolman is at all times compelled to wade a considerable portion of his beat through small streams and inlets, and when the tide is unusually high and these streams are swollen to formidable proportions, his duty is never without danger to his life. It not unfrequently happens that he loses his way in the bewilderments of darkness and in the blinding fury of wintry tempests of snow and sleet, or stress of circumstances compels a detour from the usual course where unseen and unknown dangers await him, and he falls from a bluff or is precipitated into a gully or over driftwood or logs, sometimes incurring serious physical injury. There are instances where he has lost his life on the perilous pathway of patrol duty.

But the supreme dangers of the service and the ultimate test of fidelity and capacity occur at shipwrecks. Putting out into the surf and storm is hardly less perilous than a charge upon the field of battle. The surfmen take their lives in their hands on every such occasion, and although

the record shows that their skill and courage as a rule carry them through in safety, many have laid down their lives and many more have suffered permanent physical disability. So heroic and successful have been the efforts of these men that the Life-Saving Service of the United States confessedly stands at the head of all similar institutions in the world.

The nature of the duties and responsibilities imposed upon both classes to be benefited by this bill is more fully set forth in the accompanying communication of the General Superintendent of the Life-Saving Service, which is appended hereto and adopted as a part of this report, and to which attention is invited.

In addition to the foregoing considerations, which relate to the matter of increase as an act of justice to the keepers and crews, there remains still another view of the case to be taken, and that concerns the maintenance of the efficiency of the service. For many years the service has maintained by universal acknowledgment the foremost place among all existing institutions of the kind and the world-wide reputation of its achievements and completeness has reflected honor upon the nation. Shall we suffer this honored and efficient agency of humanity to fall into decay and demoralization by a denial of simple justice to the brave men whose integrity, fidelity, and heroism have made it what it is? That is the present danger. Some of the best keepers and many of the most valuable surfmen have already left the service for better wages elsewhere and this depletion of the ranks is constantly going on. The last annual report of the Secretary of the Treasury, calling attention to the inadequacy of the compensation now allowed to keepers and crews, shows that upward of 30 per cent of the trained men of the lake districts have resigned their places for this reason.

The same embarrassment is encountered on the ocean coasts, only to a less startling degree. So serious is the situation in this regard upon the lakes that it has been found impossible in a number of instances to obtain men with any experience whatever, and if existing conditions are to continue, the substitution of inexperienced and inferior men must soon very decidedly impair the efficiency of the service. It is believed that the recommendations of the committee, if enacted into law, will effectually relieve this alarming feature, and enable the service to retain the veterans by whose constancy and courage thousands of lives and millions of property have been saved.

The passage of this bill, which, in the opinion of the committee, will be an act of justice to the men, as heretofore stated, would insure the continued efficiency of the service, which, laying aside the prime consideration of the rescue of human life, annually saves an amount of property exceeding many times in value the cost of its maintenance.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 29, 1892.

SIR: I have the honor to acknowledge the receipt of your reference of the 21st instant of a number of bills, among which were bills H. R. 208 and H. R. 603, each entitled "A bill to amend and reënact section 5 of an act entitled 'An act to promote the efficiency of the Life Saving Service and to encourage the saving of life from shipwreck," and bill H. R. 272, entitled "A bill to determine and increase the pay of keepers of life-saving and lifeboat stations, and of crews of surfmen employed at the life-saving and lifeboat stations," for any information the Department may possess and any suggestion it may desire to make. I have also to acknowledge the letter of the clerk of said committee, dated the 23d instant, inclosing several bills, among which is bill H. R. 3969, bearing the same title as bills H. R. 208 and H. R. 603, above noted.

In reply, I would respectfully state that the several bills were referred to the General Superintendent of the Life-Saving Service for report, and I transmit herewith his reply with my concurrence.

Respectfully, yours,

O. L. SPAULDING,
Acting Secretary.

Hon. GEORGE D. WISE,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives.

TREASURY DEPARTMENT,
OFFICE OF THE GENERAL SUPERINTENDENT LIFE-SAVING SERVICE,
Washington, D. C., January 29, 1892.

SIR: I have the honor to acknowledge your reference for report of a copy of the letter of the chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives, dated the 21st instant, inclosing, for any information the Department may possess and any suggestion it may desire to make, a number of bills which have been referred to that committee, among which were bills H. R. 208 and H. R. 603, each entitled "A bill to amend and reënact section 5 of an act entitled 'An act to promote the efficiency of the Life-Saving Service and to encourage the saving of life from shipwreck,'" and bill H. R. 272, entitled "A bill to determine and increase the pay of keepers of life-saving and lifeboat stations, and of crews of surfmen employed at the life-saving and lifeboat stations."

I have also to acknowledge your reference of a copy of the letter of the clerk of said committee, dated the 23d instant, inclosing several bills, among which is bill H. R. 3969, bearing the same title as bills H. R. 208 and H. R. 603 above noted.

All these bills relate to the same subject as Senate bill 750, upon which I made report on January 19 last, and bill H. R. 3969 is identical with it. I beg, therefore, to submit, as my report upon the House bills referred to, the inclosed copy of the report I had the honor to make upon said Senate bill 750.

Respectfully, yours,

S. I. KIMBALL,
General Superintendent.

The SECRETARY OF THE TREASURY.

TREASURY DEPARTMENT,
OFFICE OF THE GENERAL SUPERINTENDENT LIFE-SAVING SERVICE,
Washington, D. C., January 19, 1892.

SIR: I have the honor to acknowledge your reference, for information and suggestion, of the letter of the chairman of the Senate Committee on Commerce, transmitting a copy of bill S. 750, "to amend and reënact section 5 of an act entitled 'An act to promote the efficiency of the Life-Saving Service, and to encourage the saving of life from shipwreck,' approved May 4, 1882."

The bill provides for the appointment of "one assistant superintendent for the district comprising the coast of Rhode Island." The coast of Rhode Island now forms a part of the third life-saving district, which includes that coast and the coast of Long Island, and there is already provided one assistant superintendent for the coast of Rhode Island. I know of no necessity for the appointment of another.

I am in hearty accord with the general purpose of the bill to increase the compensation of the keepers and crews of the life-saving stations, and in all the last annual reports of the service have urged the necessity and justice of the enactment of some measure to effect this object. I inclose herewith an extract from the report of 1888 (pages 48 to 50) containing a summary of my views which have been reiterated in different form n subsequent reports, and also a copy of a report dated March 30, 1888, on a bill entitled "A bill granting pensions in certain cases," showing the extent and character of the duties required of the men for whom relief is sought. During the past two years the service has been considerably embarrassed by the resignation of keepers and surfmen to accept more lucrative employment elsewhere. Especial difficulty in this regard has been experienced on the Great Lakes, where a large percentage of the force have left the stations on this account, whose places have had to be filled by inexperienced and therefore less efficient men. The trouble, however, is not confined to any locality, but is felt on every coast. Some remedial legislation has therefore become a necessity if the past high standard of efficiency is to be maintained.

As to the keepers of stations, the Secretary of the Treasury is at present authorized by law to fix their compensation at a sum not to exceed a maximum limit of $800 each per annum. Under this provision most of the keepers now receive $700

each. A few who have specially distinguished themselves in the performance of heroic and extrahazardous duty, and two or three whose stations are located in unusually desolate places, far remote from other human habitations and difficult of access, receive the maximum sum of $800 each; and the keepers of the class of stations denominated houses of refuge receive $600 each. The discrimination against the keepers of houses of refuge arises from the fact that those stations being located where the shipwrecked can usually gain the land without assistance, but afterwards require food and shelter, are not provided with crews, and the keepers, therefore, have little more to do than to furnish those who may be cast ashore with the immediate necessaries of life, for which they are subsequently reimbursed; to temporarily guard from pillage shipwrecked goods, and to properly care for the public property intrusted to their charge.

Petitions have been received from nearly all the keepers of the stations where crews are employed for the allowance of the maximum sum authorized by law, but the Department has been obliged to deny their request for the reason that the appropriation for the pay of keepers, which was based upon the rates at present paid, is not sufficient to admit of the increase asked for.

In my judgment it would be wise to fix by law the compensation of all keepers, making the proper distinction between those in charge of the two classes of stations.

The estimates for the maintenance of the life-saving establishment for the ensuing fiscal year includes 254 keepers and 1,674 surfmen. Ten of the former are keepers of houses of refuge.

Two rates of compensation for both keepers and surfmen have been proposed: One at $1,000 per annum for keepers and $75 per month for surfmen when on duty at the stations; the other, at $900 per annum for keepers and $65 per month for surfmen. Under the first proposition the amount that would be required for the ensuing fiscal year, additional to the estimate already submitted upon the basis of present rates, is:

For pay of keepers	$56,700
For pay of surfmen	335,125
Total	391,825

Under the second proposition the additional amount required would be:

For pay of keepers	$32,300
For pay of surfmen	201,075
Total	233,375

When the severe toils, bitter privations, and appalling dangers incident to their calling are considered, and when it is remembered that the spirit with which these hardships have been met has resulted in the saving of thousands of lives, and an amount of property many times exceeding in value the cost of maintaining the service, while the history of their achievements has added luster to the national honor, it would seem that the higher rates would not be too great a reward to bestow on these faithful and heroic men. At all events, a substantial increase should be made.

I beg leave to call the attention of the committee to the following extract from the last annual report of the Secretary of the Treasury, which states the case correctly:

"The last two annual reports of the Secretary called attention to the inadequacy of the compensation allowed to the keepers and crews of stations, upon those skill, bravery, and honest devotion to most perilous and exacting duty the good name of the service and the lives of imperiled mariners depend. In the last report it was shown that during that year more than 30 per cent of the trained men had left the stations in the lake districts, and a somewhat smaller percentage on the ocean coasts, for more lucrative employment, occasioning considerable embarrassment to the service. This exodus has increased during the past year, and its continuance can not fail to seriously affect the efficiency of the corps. Many of the remaining veterans are only retained by the hope of better wages, which the repeated recommendations of the department, and the justice of the case have excited. The hope is earnestly expressed that the relief, which simple justice to the men and the preservation of the high standard of efficiency which this service has hitherto maintained alike demand, may not be longer deferred."

The situation is so serious on the lakes that in many instances it has been found impossible to obtain men with any experience as boatmen, and common laborers have had to be taken. In one station one-half of the crew consists of such. The keeper reports that he could do no better at the rate of compensation allowed.

Respectfully, yours,

S. I. KIMBALL,
General Superintendent.

The SECRETARY OF THE TREASURY.

RECOMMENDATIONS.

The foregoing statement of the year's operations is submitted with unusual satisfaction, in view of the fact that the beneficent results exceed those furnished by the record of any previous year. They justify the highest anticipations of the friends of the institution and are an earnest of what may reasonably be expected in the future, not only in saving life and relieving human suffering, but also in the recovery and preservation of imperiled property, provided the present high standard is maintained.

While for these results much credit is due to the officials of the service, whose unfaltering zeal and devotion it is desired here to gratefully acknowledge, it must not be forgotten that it is the men composing the station crews who perform the practical work upon the coast, and whose perils, privations, and toils supply the material facts from which the story of the year is written. The detailed account of their work which has been given under the caption of "Loss of Life," and which follows hereafter under that of "Services of Crews," graphically illustrates their fidelity, heroism, and devotion. No one can read this record and fail to be profoundly impressed with these characteristics of the men.

Their service has been arduous and unremitting. Daily drills, night watches, and patrols, unfailing vigilance without limit of hours make up the ordinary routine of the surfman's life. Disasters are to be expected even in fair weather, still more in the violent storms that drive others to the comfortable shelter of home. To insure their early discovery he walks the beach through the darkness of night, enduring all weather and suffering terrible fatigue, while other toilers rest and gather new strength for the labors of the coming day. The summer aspect of the shore, whose refreshing breezes invite thither comfort-seeking throngs from the heated cities, conveys no idea of the storm-beaten sands of winter when the beach is cleft by gullies, choked with snow, and swept with cutting blasts of sleet. The service is then severe and dangerous. As a consequence of their exposure many of the men have fallen victims to chronic ailments, some have been maimed for life by accident, and others have perished on their beats. It is probably safe to say that there is no other class of men engaged in duties at once so tedious and perilous as those which these faithful guardians of the coast perform in maintaining the unremitting night patrol throughout the rigorous season of the year. But their labors are not confined to this routine of watch, patrol, and daily drill. Summoned in the dead of night, or by day in the midst of their ordinary toil, to a duty higher than these, by an alarm that a vessel is ashore, they take their places at the boat wagon or the apparatus cart for a supreme effort with a courage and determination that has never yet quailed before any hazard, and execute prodigies of valor and endurance that have made them celebrated throughout the land and added to the nation's glory.

Their bravery and fidelity are made more effective by the possession of a degree of skill only attainable by long experience. Trained from childhood to the handling of boats in heavy seas, they will go out to a wreck through a surf that would daunt the ordinary sailor and instantly capsize or swamp a boat in less experienced hands.

Conditions are imposed upon their employment to which the ordinary wage earner is not subject. They must not only be expert in the management of boats, being selected because of this by the keepers, who are themselves men of tried ability and experience, but must pass a rigid physical examination, proving them to be thoroughly sound in body. They must also give up the pleasures of home and family life, and dwell at the isolated stations where they are subjected to rules of severe discipline. If derelict they are immediately discharged.

As compensation each surfman receives a salary of $50 per month for eight months in the year, without subsistence, clothing, or allowances of any kind. The commonest day laborer is paid $1.25 per day, or but 41 cents less than this, and any skilled laborer gets much more. Besides, these work but nine or ten hours per day and twenty-six days to the month. Even the drivers of our street cars are much better paid than the surfmen who risk their health and lives for the safety of the lives and property of others. The rate of compensation was formerly $40 per month and this was raised in 1882 to the present sum. Since that date the growth of our commerce has made the duty of the men much more arduous, both by increasing the number of wrecks and casualties and by multiplying many small services that can not be enumerated in detail. The demands of the discipline now enforced are also much greater, as an absolutely regular watch and patrol were not formerly as now exacted. In the mean time the wages of all other laboring men have been increased, either directly by increasing the compensation in terms, or indirectly by decreasing their hours of labor.

In view of these facts it is felt to be a duty to recommend a further increase in the pay of the surfmen as an act of simple justice. Moreover, the welfare of the service and of all the interests committed to its charge demand it. While enthusiasm for the philanthropic work and downright love of the service may hold many to their

employment, yet it is easy to foresee that it will be impossible to maintain the present high standard of efficiency if this obligation of the Government is neglected. Higher wages or greater advantages are held out upon every side. Already in the lake districts it is difficult to retain the men. In the spring of this year 31 per cent of the surfmen in these districts left to engage in other pursuits. Shall not the threatened exodus be averted by the provision of a compensation to these heroic men more nearly adequate to the services they render?

TREASURY DEPARTMENT,
OFFICE OF GENERAL SUPERINTENDENT U. S. LIFE-SAVING SERVICE,
Washington, D. C., March 30, 1888.

SIR: I have received from the chairman of the Committee on Pensions of the House of Representatives a copy of House bill 1634, entitled "A bill granting pensions in certain cases," with the request that the committee be furnished with such suggestions and data as will assist them in their consideration of the bill.

In reply I have the honor to submit the following statement of facts, which are such as I conceive will most effectually aid the committee:

The Life-Saving Service, as at present organized, divides the ten thousand miles of sea and lake coast of the United States into twelve districts, each of which is under the direction of a district superintendent. These officers are required, upon appointment, to be not less than 25 nor more than 55 years of age. They must be able to read and write English fluently, and have sufficient knowledge of accounts to properly transact the district business. They must be familiar with the line of coast embraced in the particular district for which they are chosen, and conversant with the management of lifeboats and other life-saving appliances. They are required to pass a rigid examination in these respects, conducted by the General Superintendent and the chief inspector of the service. Their appointment, like that of the keepers and crews of the stations, is required to be made solely with reference to their fitness, and without reference to political or party affiliations.

Their duties comprise the immediate superintendence of the several stations embraced in their respective districts. As disbursing officers they pay off the crews quarterly, visiting the stations severally for that purpose, and make such other expenditures as are authorized by the Department. They also perform the duties of inspectors of customs. They are required to enter into bonds varying in amount from $10,000 to $50,000, in proportion to their fiscal responsibility. In addition to their quarterly tours they are obliged to visit their stations on frequent other occasions as circumstances require, and to be present on occasions of wreck whenever practicable, but they are not required to take a place in the boat. They have sometimes done so voluntarily. They are liable, however, to exposure in all kinds of weather, and two of them have lost their lives by drowning in the discharge of duty.

A pension was granted for the widow of one of these officers at the rate provided for a deceased captain of the Navy (see act of May 25, 1878, Stats. L., Vol. 20, Ch. 130, p. 533). For the minor children of the other, he having left no widow, a bill is now pending before the Committee on Pensions of the House of Representatives (bill H. R. 461), upon which this office submitted a report on the 23d ultimo.

The compensation of the district superintendents varies from $1,000 to $1,800 per annum, according to the number of stations in their respective districts and the degree of fiscal responsibility which is devolved upon each.

There are at present in commission 218 stations, distributed upon the ocean and lake coasts as follows: One hundred and sixty-six on the Atlantic, 44 on the Great Lakes, 7 on the Pacific, and 1 at the Falls of the Ohio (Louisville, Ky.). Each of these stations, excepting 10 on the coast of Florida, known as houses of refuge, is manned by a keeper and a crew of surfmen, varying in number from 6 to 8, according to the requirements of the various localities, aggregating in the whole about 1,400 men. Keepers are appointed upon the nomination of the district officers and the recommendation of the General Superintendent. They are required to produce certificates from a surgeon of the Marine-Hospital Service that they are physically sound and able-bodied. They must be not less than 21 nor more than 45 years of age, able to read and write, have sufficient knowledge of arithmetic to keep the station accounts, and be experts in salvage and the management of life and surf boats. They are charged with the responsibility of selecting their crews, of which they are captains, and whom they lead, and whose perils they share on all occasions of rescue.

They are intrusted with the custody and care of the Government property at the stations and with their general management and conduct, keeping a daily journal of all transactions of every kind and making weekly reports of the same to the Department. They are also inspectors of customs, and as such look out for the Government interests in relation to dutiable goods on board of wrecks, until the

arrival of other customs officers. They are also made by law the guardians of all wrecked property, until relieved of this responsibility by the owners or their agents. Their compensation is fixed by the Secretary of the Treasury, under the law, at a rate not to exceed $800 per annum. The maximum rate is allowed to but two of them, whose positions are of exceptional importance; all of the others are allowed $700 per annum, with the exception of the keepers of the ten houses of refuge, above mentioned, whose salaries are $400 each, and two other keepers of stations, also without crews, who receive $500 and $360, respectively.

The surfmen are enlisted like soldiers for a term of one year, and are reënlisted from year to year so long as they are found able-bodied and efficient and are willing to serve, the design being to make available the experience and knowledge which they have gained in the service. Like soldiers, they are compelled before enlistment to undergo the strictest physical examination by surgeons of the Marine-Hospital Service and upon admission must be absolutely sound, able-bodied men. In addition they are required to be experienced professional surfmen of the highest qualification, and of good moral character and conduct.

Being enlisted they at once repair to their respective stations and reside there, away from their families, for the most part on lonely, desolate coasts, completely isolated from other human associations, and remain on the ocean coasts from the 1st of September until the 1st of the May following, and upon the lake coasts from the beginning of navigation in the early spring until its close, some time in December; in both cases being exposed to the most rigorous weather of the year. During this period each man is permitted to be absent from the station only one day, from sunrise to sunset, in each week, or, in lieu of this, twenty-four consecutive hours in each fortnight. No other absence whatever is allowed them except in cases of exigency, when they are required to furnish acceptable substitutes at their own expense.

Their duties at the station consist of daily practice and drill of some kind with the boats and apparatus, taking care of the station and the Government property, maksuch repairs and improvements as may be within the scope of their ability, and at night and during thick weather keeping watch and patrol upon the beach. The night is divided into four watches, each of which is taken in turn by two surfmen, proceeding from the station in opposite directions, and patrolling the beach until they meet the patrolmen from the adjacent stations, and exchange checks with them to prove their faithful execution of this duty. Where the stations are located at too great a distance from other stations to admit of this, a regular beat of several miles is assigned, the limit of which is marked by a key post, which the patrolman is obliged to reach and there make record of his presence upon the patrol clock which he carries for the purpose.

The severity of this duty can hardly be conceived by people accustomed to remain at night within doors. Some idea may be formed from the fact that men have perished in its discharge, while others have providentially escaped death through timely rescue by their comrades. It is not at all unusual for the patrolmen to meet with accidents which cripple them, through stumbling in the dark over driftwood and unseen obstacles, and a large proportion of the deaths which have occurred in the service is due to complaints contracted through exposure on patrol, it frequently happening during the prevalence of storms that the men are drenched by overflooding seas or by having to wade through the beach gullies, often waist deep and sometimes deeper. This duty is considered so important that it is never under any circumstances omitted, and its infraction is held to be unpardonable and is followed by certain dismissal.

In addition to the foregoing regular routine must be added their terrible and daring labors at shipwreck. This, of course, is their crowning duty and involves efforts almost superhuman and heroism carried to the very brink of deadly peril and often to death itself. It is unnecessary to enlarge upon this feature, as numerous examples of their prowess are known to the country at large and have become as familiar as household words. The extent of their success is attested in the annual reports of the service, by statistics showing great numbers of lives saved and vast amounts of property delivered from the perils of the sea. The compensation of the men is determined less by the worth of their service than by the current rates of labor wages prevalent upon the coast. It is authorized by law to be fixed by the Secretary of the Treasury, not to exceed $50 per month, and the maximum rate is allowed to all. No further allowance of any kind is made to them; food, clothing, etc., being entirely at their own expense.

Provision for the temporary relief of keepers and surfmen who become disabled in the line of duty is made by the act of May 4, 1882, entitled "An act to promote the efficiency of the Life-Saving Service, and to encourage the saving of life from shipwreck," which authorizes their continuance upon the rolls of the service for one year, or during the continuance of their disability, and a further extension through a portion or the whole of another year, if recommended by the General Superintendent and approved by the Secretary of the Treasury. This provision is in section 7 of the

act referred to. Section 8 makes temporary provision also for the widows and the children under 16 years of age of keepers and surfmen who lose their lives in the discharge of duty, by authorizing the payment to them in equal portions, for the term of two years, of the same compensation which the husbands and fathers would have received had they lived and continued in the service.

There is another class of officers which perhaps would fall within the provisions of the bill as it now reads. These are the inspector and the assistant inspectors of life-saving stations. They are officers of the Revenue Marine Service detailed by the Secretary of the Treasury under the authority of section 8 of the act of June 18, 1887, entitled "An act to organize the Life-Saving Service."

The duty of the inspector is to exercise a supervision over the assistant inspectors assigned to the several districts; to make personal inspection of the stations when deemed necessary; to inspect the apparatus, equipments, and supplies which are constructed or purchased for the service; to conduct special investigations when directed, and to perform such other duties as may imposed upon him by the general superintendent. His headquarters are in New York City.

The assistant inspectors are assigned to the several districts, one in each, and their duties are to visit each station in their district at least once in every quarter, and as much more frequently as is necessary; to closely inspect, upon such visits, all articles of equipment, furniture, supplies, and all public property of every description, comparing them carefully with the inventories and noting their condition; to take measures for supplying any deficiency, and to see that everything is always ready—in complete working order. They conduct the drills and give instructions to the keepers and their men. They investigate the circumstances of all disasters attended with loss of life, and all charges of dereliction or misconduct on the part of the keepers and crews. In fact, they are more directly than any other officers responsible for the *morale* and efficiency of the corps. They have no other compensation than that allowed them as officers of the Revenue Marine.

Two other officers of the Revenue Marine, with rank of captain, are assigned to duty in this service by the requirements of section 4249 of the Revised Statutes that all life-saving stations shall be erected under the supervision of two such officers. They are styled 'superintendents of construction of life-saving stations,' and their duties are indicated by this designation. They receive no compensation outside of their salaries as officers of the Revenue Marine. When necessary, authority is given them to employ assistants to personally supervise the construction of buildings on the spot, and the number of these at any time is determined by the number and locality of stations in course of erection. At present there are seven. Their compensation is based upon their skill and experience, ranging from $100 to $125 per month. Two other men are employed as telephone experts and linemen, at a compensation of $100 per month, each.

The foregoing statement embraces the entire personnel of the service, except the force engaged in the office at Washington, consisting of the General Superintendent, the assistant general superintendent, the clerical force; a civil engineer, who for a considerable portion of his time is employed in the field; a topographer and hydrographer, who is also employed much in the field, and a draftsman.

In reference to the request of the committee for my views on this subject, I herewith subjoin, as expressive of them, the following extracts from the annual reports of this service for the years 1876, 1879, and 1880:

"It would, however, be both just and proper, and inure much to the good of the ervice, to bring both the keepers and crews under the benefit of a pension act. These crews are composed of poor fishermen, who live scantily and find a main means of support in the slender pay they receive as surfmen. Grown old or become disabled in the service, they sink into penury or dependence, and when they lose their lives, as in the signal disaster of the past year, in attempting to save others, or when they die in the course of nature, their death, after all their valuable and heroic service, leaves their families in poverty and want. It should be borne in mind that they are the very flower of their class, hardy and able seamen, dexterous and conrageous, matchless in managing boats in heavy seas and in the perilous neighborhood of wrecks, and of such approved integrity that the property of mariners and passengers and the cargoes of vessels saved by their efforts suffer no loss at their hands.

"The soldier, in this age, is known and is only justified as one who professionally stakes his life in the defense of his fellow-citizens. It is because he does this that, grown veteran or infirm, or falling on the battle field, we recognize his right and the right of his family to support at the expense of the public he guards. These life-saving crews—these storm soldiers—render a similar service, and no less dangerous and noble, and they deserve the same substantial recognition. Each year the record shows hundreds of lives and vast amounts of property saved by their exertions, and these exertions, laborious in themselves, are often made at the peril of their own existence. It is conceived, therefore, that the soldier's right to pension exists in their case also; and that when age or infirmity has come upon them, or

when they surrender life in the line of their duty, what they have done and suffered for others should be remembered to them and theirs by the nation."—(Annual report for 1876.)

"It is also recommended that the benefits of the pension laws be extended to such of them (keepers and crews) as may become disabled in the discharge of duty, and to the widows and orphans of those who may perish in attempts at rescue. This recommendation was made in a former report, and formally supported by reasons, as propriety seemed to require. It is now simply renewed, for surely no further argument is necessary to show that the benefit of pension is as much due to men who are maimed or killed in the effort to save life in the service of the country as to those who suffer the like injury or loss when the interests of the country demand that life should be destroyed.

"In the instance of the loss of the United States steamer *Huron* in 1877 the Government made liberal pecuniary allowance to the immediate relatives of the persons who perished in the endeavor to render assistance, and in addition placed them, on a generous scale, upon the pension rolls. Yet the year before seven brave men, the whole crew of a station boat, went out in the night in a desperate effort to save life from the Italian bark *Nuova Ottavia*, on the coast of North Carolina, and were every one drowned; and to this day, with the exception of a very small gratuity bestowed by an Italian society, nothing has been done for the relief of their widows and orphans, although it is understood they are all in penury."—(Annual Report for 1879.)

"In one of its sections the bill provides for the extension of the benefits of the pension laws to the widows and orphans of members of life-saving crews who may perish in attempts at rescue. Such a provision has been repeatedly recommended in the reports of this service, and it is assumed that its equity is too obvious to require argument. No soldier or sailor ever laid down his life in the defense of his fellow-citizens more truly than did the brave young surfmen of the Pointe aux Barques crew last April. To hedge around with social protection the groups of weeping women and children whom the fate of these heroes bereaved is surely a sacred duty. The same duty is due to the wives and little ones of the ardent crew who died in 1876 in an effort to save the sailors of the *Nuova Ottavia*, and to every widow and orphan brought to this estate because there were husbands and fathers in this service who ranked the public good above their own safety."—(Annual Report for 1880.)

As correlative to the subject I also append a copy of a letter, dated January 13, 1881, from the Secretary of the Treasury, addressed to the Speaker of the House of Representatives, recommending the extension of the pension laws to the crews of the Life-Saving Service:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 13, 1881.

SIR: My attention has been called to the case of Isaiah Young, a surfman belonging to the crew of Life-Saving Station No. 7, Second District, Cape Cod, who was seriously injured alongside the stranded sloop *C. E. Trumbull*, before daybreak, on the morning of November 30, 1880, the surfboat having been capsized in the effort to rescue the people from the vessel, three of the boat's crew perishing, and Mr. Young, with others, barely escaping, he being found insensible on the shore after long exposure in the water.

The superintendent of the district reports that in all probability he will never again be able to perform duty, and that he is entirely dependent upon his compensation as a member of the life-saving crew for the support of himself and his family.

His stipulated term of service extends from September 1 last to the 1st of May next, and his employment is under authority of a paragraph of the act making appropriations for the sundry civil expenses of the Government for the current fiscal year (United States Statutes at Large, vol. 21, p. 261), and reads as follows:

"For pay of crews of experienced surfmen, employed at the life-saving and lifeboat stations, at a rate not to exceed forty dollars per month each, during the period of actual employment, three hundred and seventy-six thousand nine hundred and sixty dollars."

It is questionable whether this provision contemplates the retention of a person upon the pay rolls after he ceases to render active service, but inasmuch as this man not only periled his life upon the occasion referred to, but received disabilities which are likely to be permanent, I am, in the absence of any provision for pension or other means of support, reluctant to place the Government in the position of ejecting from its employment one who has become useless through devotion to his duty in the public service, and shall continue his pay for the remainder of the period for which he was employed, or until Congress shall otherwise direct or provide for him.

Other cases of this nature are liable to arise, and it seems only just and right that those in the Life-Saving Service who incur irrecoverable disability in efforts to save

human life should be eligible to the benefits of the pension laws. The keeper of the station and the two men who lost their lives in the disaster referred to left behind them dependent families, and other instances of the same kind have occurred in the history of the service. It would seem that ample provisions should also be made for this class of cases.

I therefore take the occasion to recommend that Congress take early steps for the extension of the pension laws to the crews of the Life-Saving Establishment.

I am, very respectfully,

JOHN SHERMAN,
Secretary.

Hon. S. J. RANDALL,
Speaker of the House of Representatives.

It is observed that the bill proposes to pension the "widow of each employé in the Life-Saving Service who shall have lost his life," etc. It is respectfully suggested that the term "employé" is a word which may require definition, being employed sometimes in a broad sense to include every person in the employ of the Government, and at others in contradistinction to the term "officer," "official," "clerk," etc., to designate a person hired by the day or month, for instance, as against one salaried. As used in the bill it might be construed to embrace the General Superintendent, his assistant, the clerical force of his office, the persons employed to supervise the building of stations and repairs to them, etc.—persons whom it probably would not be the desire of the committee to include. It is therefore suggested that if a favorable report upon the bill should be determined upon by the committee, specific mention of the class or classes of persons whose widows and children it is desired to benefit would be advisable. I have hereinbefore referred to the duties, responsibilities, etc., of every class of persons connected with the service, to enable the committee to make suitable discrimination.

The idea of extending the benefit of pensions to the Life-Saving Service springs, of course, from its well-known perilous nature. It would seem, therefore, that unless it were the wish to establish a precedent for extending these benefits to the general civil list, they should be confined to the widows and children of the station keepers and crews, and perhaps to those of the superintendents, since the latter, as has heretofore been shown, occasionally lose their lives by the perils of the service. To the inclusion of these latter officers it may be objected that the language of the bill would pension their widows and children although death might not result from injury or disease consequent upon or incident to the performance of duty in the service, but from merely ordinary and natural causes. This is true; and the same might be said in reference to its application to the case of the keepers and crews. It is suggested, however, that this difficulty could be met by striking out, in lines 7 and 9 of the bill, all between the words "life" and "said" and substituting the words "by reason of injury or disease consequent upon or incident to the performance of duty in."

For the further information of the committee I have had collated, and herewith inclose, a list of persons who have died in the service by reason of injury received or disease contracted in the line of duty since the origin of the present system, as shown by the records of the Department.

Respectfully yours,

S. I. KIMBALL,
General Superintendent.

The honorable SECRETARY OF THE TREASURY.

List of persons who have died by reason of injury received or disease contracted in the line of duty in the Life-Saving Service since the origin of the present system, as shown by the records of the Treasury Department.

Date.	Name.	Grade.	Station.	District.	Nature of casualty, etc.
March 1, 1876	John R. Gale	Keeper	Little Island	Sixth	Drowned while attempting to rescue the crew of the wrecked Italian bark Nuova Ottavia off coast of North Carolina.
Do	Lemuel Greggs	Surfman	do	do	
Do	Lewis White	do	do	do	
Do	Malachi Brumsey	do	do	do	
Do	Spencer D. Gray	do	do	do	
Do	J. Munden	do	do	do	
Do	George W. Wilson	Volunteer	do	do	
January 5, 1877	John Parker	Surfman	Forked River	Fourth	Died on night patrol.
March 30, 1877	H. H. Nickerson	do	Monomoy	Second	Fell from aloft and was instantly killed while assisting in saving property from Italian bark Papa Luigi C.
November 25, 1877	J. J. Guthrie*	Superintendent		Sixth	Drowned while attempting to go to the assistance of survivors of U. S. S. Huron.
April 23, 1880	William J. Sayers	Surfman	Pointe aux Barques	Tenth	Perished in attempting to go to the assistance of distressed schooner J. H. Magruder on reef off Pointe aux Barques, Lake Huron.
Do	Robert Morrison	do	do	do	
Do	James Pottenger	do	do	do	
Do	Dennis Deegan	do	do	do	
Do	James Nantau	do	do	do	
Do	Walter Petherbridge	do	do	do	
October 20, 1880	Joseph Sawyer	Superintendent		do	Drowned off Rogers City, Mich., while making tour of stations in his districts.
Do	George Feaben	Keeper	Hammonds Bay	do	Drowned off Rogers City, Mich., with Superintendent Sawyer, while transporting him from Hammonds Bay Station, tenth district.
November 30, 1880	David H. Atkins	do	Peaked Hill Bar	Second	Perished while attempting to take ashore crew of stranded sloop C. E. Trumbull.
Do	Elisha M. Taylor	Surfman	do	do	
Do	Stephen F. Mayo	do	do	do	
May 15, 1881	David Hitchens	Keeper	Smiths Island	Fifth	Reported to have died from disease caused by cold and exposure while in the line of duty.
Do	George J. Warner	do	Wachapreague	do	Do.
Do	Warner Collins	Surfman	Cobbs Island	do	Reported to have died from disease caused by cold and exposure while swimming to a boat during the gale and tidal wave of October 23, 1878.
January 11, 1884	George Marwick	do	Manistee	Eleventh	Reported to have died from disease contracted in the line of duty.
February 14, 1884	Cornelius Maddock	do	Fairport	Ninth	Reported to have died from disease caused by cold and exposure while in the line of duty.
February 27, 1884	Nathan B. Sampson	do	Manomet Point	Second	Reported to have died from disease caused by exposure while in the line of duty.
April 4, 1884	Henry M. Hopkins	do	Green Run Inlet	Fifth	Do.
May 28, 1884	Isaac B. Corson	do	Ocean City	Fourth	Reported to have died from disease caused by cold and exposure while in the line of duty.

August, 1884	Henry W. Beaupre	do	Ludington	Eleventh	Reported to have died from disease caused by exposure while in line of duty.
September 10, 1884	William P. O'Neal	do	Chicamicomico	Sixth	Alleged to have died from an injury received in the line of duty.
October 31, 1884	Charles J. Brandon	Keeper	Saluria	Eighth	Reported to have died from disease caused by exposure while in the line of duty.
December 16, 1884	Reuben L. Hall	do	Crumple Island	First	Do.
September 19, 1885	Dana F. Dalbow	Surfman	Brigantine	Fourth	Do.
September 21, 1885	William Jones	Keeper	Racine	Eleventh	Drowned while at boat drill.
February 11, 1886	John I. Soper	Surfman	Barnegat	Fourth	Drowned while attempting to rescue the crew of the Austrian bark Kraljevika, wrecked on Barnegat Shoal.
Do	Solomon Soper	do	do	do	
Do	Samuel F. Perrine	do	do	do	
July 27, 1886	Henry Y. Willets	Keeper	Townsends Inlet	do	Reported to have died from diseases caused by exposure while in the line of duty.
November 3, 1886	John Stewart	do	Sabine Pass	Eighth	Do.
November 29, 1886	James Flynn	do	Grande Pointe au Sable	Eleventh	Perished in attempting to go to the assistance of the schooner A. J. Dewey, flying a signal of distress.
Do	Oren Hatch	Surfman	do	do	
Do	John Smith	do	do	do	
December 2, 1886	Robert Wright	do	Oswego	Ninth	Killed by railroad train during snow storm, while on patrol duty.
January 8, 1887	Abel Belanga	Keeper	Little Island	Sixth	Perished while attempting to rescue the crew of the German ship Elizabeth, wrecked on the coast of Virginia.
Do	John H. Land	Surfman	do	do	
Do	George W. Stone	do	do	do	
Do	Joseph Sprately	do	Dam Neck Mills	do	
Do	James E. Belanga	do	do	do	
January 19, 1887	Elijah M. Bennet	Keeper	Napeague	Third	Reported to have died from disease contracted while in the line of duty.
January 23, 1887	Joseph W. Spurling	Surfman	Cranberry Isles	First	Do.
April 11, 1887	Valentine W. Tolson	do	Durants	Sixth	Reported to have died from disease caused by exposure while in the line of duty.
July 16, 1887	George Buchanan	do	Cleveland	Ninth	Reported to have died from disease contracted while in the line of duty.
Do	Israel S. Blackman	Keeper	Absecon	Fourth	Do.
August 23, 1887	Sylvester A. Lincoln	Surfman	Nauset	Second	Do.
September 16, 1887	Lemuel C. McKay	do	Shoalwater Bay	Twelfth	Reported to have died from disease caused by cold and exposure while in the line of duty.
October 14, 1887	John R. Littleford	do	New Shoreham	Third	Do.

*By act of Congress approved May 25, 1887, Superintendent Guthrie's widow receives the same pension as the widows of deceased captains of the Navy.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 509.

LEGAL REPRESENTATIVE OF FRANKLIN S. WHITNEY, DECEASED.

MARCH 2, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5618.]

The Committee on War Claims, to whom was referred the bill (H. R. 5618) for the relief of the legal representative or representatives of Franklin S. Whitney, deceased, submit the following report:

This claim was presented to the Fiftieth Congress and favorably reported upon by the Committee on War Claims to whom it was referred.

As the investigation of the case has led your committee to substantially the same conclusions as those reached by the committee of the Fiftieth Congress, it is deemed unnecessary to recapitulate the facts set forth in the report of that committee, a copy of which is hereto attached and made a part of this report.

Your committee recommend that the bill referred to them do pass.

[House Report No. 2581, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the petition of Mattie S. Whitney, administratrix of Franklin S. Whitney, deceased, asking payment for supplies and stores furnished the United States Army, have had the same under consideration, and finding all the facts set forth in the report made to the Senate, this Congress, by the Committee on Claims of the Senate, adopt the same as their report, and report an original bill to carry out the views of this committee.

[Senate Report No. 414, Fiftieth Congress, first session.]

In the Forty-eighth Congress, at its first session, a bill (S. 1592) was introduced by Mr. Miller, of New York, entitled "A bill for the relief of Franklin S. Whitney." In the bill the Secretary of the Treasury was authorized and required to pay to Mattie S. Whitney, of New York, as administratrix of the estate of Franklin S. Whitney, deceased, the sum of $70,914.18 with interest from January 1, 1865, and to her individually the sum of $12,875, in full "for supplies furnished the Army and Navy of the United States."

The bill was referred to the Committee on Claims, and at the next session of the same Congress the committee referred the whole matter to the Court of Claims, in accordance with the provisions of the first section of the act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883, known as the Bowman act.

The purpose of this reference was to find the facts in the case and report the same for such further action as Congress might see fit to take in the premises.

The papers were accordingly transmitted to the court, and the claimant and the United States were both represented in the presentation of the case. On a preliminary inquiry, on the 20th of December, 1886, it was found by the courts that the person alleged to have furnished the supplies or stores, or from whom they were alleged to have been taken, was loyal to the Government during the late war. This inquiry was made under section 4 of the said act, and such affirmative finding was necessary to give to the court jurisdiction of the cause.

The case was brought to a hearing on its merits on the 19th and 20th days of December, 1887, with the following results:

The claimant submitted a bill of particulars under thirty-nine items, aggregating in value the sum of $70,914.18.

The court rejected all the items which related to the use and occupation of the real property of Mr. Whitney by any part of the military and naval forces of the United States during the war, and to such losses as resulted from the destruction of property by the Army or Navy, or by the depredations of individuals, such items being expressly excluded from its jurisdiction by the third section of the act of March 3, 1883. These items so excluded amounted to $18,615.25, and left $52,298.93 as the value of the other items, according to the prices fixed by the claimant.

The court found that all the property included in the other items was taken from Mr. Whitney for the use of the Army and Navy, and the only other matter remaining to be determined was the value of the property so taken.

In reaching this determination the court has very largely reduced the values as fixed by the claimant, and the result suggests that the interests of the Government have been most carefully guarded and protected, and that the court has fixed a minimum value upon the articles taken by the Government for the purpose of the prosecution of the war.

The amount thus found is $22,224, and the court, in accordance with law, transmitted a certified copy of the results reached to this body January 25, 1888. They were printed in Miscellaneous Document No. 41, and referred to this committee, and it is necessary to recommend what further action, if any, should be taken. Without attempting to mark out a general line of action applicable to all cases of this class, the committee will deal with this upon its merits, and make such recommendations as, in their opinion, is proper under the circumstances that now exist.

Congress having selected its own tribunal to ascertain and determine the facts in the case, and that tribunal having acted after-examination in open court, at which the Government was represented by its own chosen counsel, we must accept its findings as correct, in the absence of any reason for reviewing them.

The present claimant and her late husband, who were residents of the State of Mississippi during the late war, in the very region which was the scene of active military operations, notwithstanding the excitement and the natural influences which would have drawn them in a different direction, stood by the Union in its hour of peril and danger. Their property was used to carry on the war; houses were torn down to bridge the Big Black; some of their cotton was used to build fortifications, some to make mattresses for hospital purposes; their plantations were used for pasturage, and the growing crops were destroyed; the quartermasters took their horses, mules, wagons, carts, and carriages, their corn and fodder, and every other article that was needed for use in that department; the commissaries took everything that was available for subsistence; the medical department stripped their home of everything that could be used for hospital purposes; and in August, 1863, the family was left in so necessitous a condition that Gen. Grant, who was in command of the department and knew of their circumstances, ordered thirty days' rations to be issued to Mrs. Whitney and another lady similarly situated; and he speaks of them in his order as "having been left destitute by our troops taking nearly everything they had, in their march through Port Gibson."

But under the law the claimant is entitled to no recompense for a large portion of these losses, and the court dismissed them from consideration. It fixed the value of the items which it had jurisdiction over, but had no authority to allow the interest which was claimed and which in amount exceeded the principal.

A just and valid claim then exists, according to the findings of our own court, in favor of this lady, in her capacity as administratrix, to the amount of $22,224, and the Government has delayed its payment for nearly a quarter of a century, and the results reached appear to be supported by the facts of the case and the law applicable thereto.

The purpose of the Bowman act was to do justice to certain classes of creditors and claimants.

It left to Congress the power to determine whether or not the amount found to be due should be paid. But if the findings, unchallenged as they are, mean anything they settle the amount that is justly due, the amount that should be paid if anything is paid, and no reason appears in the records, nor has any been brought to the atten-

tion of the committee, why the result reached should be reopened, either for the benefit of the claimant or the Government.

The only question that remains is whether it is a judicious and wise policy for Congress to pay just and valid claims of this class.

The Bowman act seems to have been framed to facilitate the settlement and payment of such claims. Why ascertain the amount, the meritorious nature of the claim, and the attitude of the claimant toward the Government during the war if it were not the intention, generally, to pay such claims?

But the right to reverse this policy was reserved; the right to deal with exceptional cases was reserved, and Congress has the power to set aside or disregard the findings in any case in furtherance of justice and right. But this appears to be a meritorious case; no facts appear in the record to exclude it from favorable consideration; the claimant has gone to the expense of a trial before the Court of Claims at our own request, and no argument has been presented for a change of the policy of the Government, which has been followed ever since the war in similar cases.

This policy has been that property taken from citizens who stood by the Union, for the purpose of maintaining the Army and Navy and carrying on military and naval operations during the war, should be paid for. It is just and right that it should be. And as the claimant is within the limitation of the law as to diligence, the long delay is not to be attributed to her, and it affords an additional reason why prompt and speedy relief should now be afforded.

We therefore recommend that the findings of the Court of Claims in this case be carried out by the passage of the bill which we herewith submit, and which is in harmony with the conclusion reached by the court.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 510.

THOMAS H. CARPENTER.

MARCH 2, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 614.]

The Committee on Military Affairs, to whom was referred the bill (S. 614) authorizing the restoration of the name of Thomas H. Carpenter, late captain Seventeenth United States Infantry, to the rolls of the Army, and providing that he be placed on the list of retired officers, recommend the passage of the same for reasons set forth in report No. 266 on H. R. 1457, which is similar in every respect to this bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 511.

GEORGE H. PLANT.

MARCH 2, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOUD, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1468.]

The Committee on Claims, to whom was referred the bill (H. R. 1468) for the relief of George H. Plant, submit the following report:

This claim was referred to the Court of Claims for investigation and report by the Senate Committee on Claims in accordance with the provisions of the act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883. The Court of Claims on June 2, 1890, made findings of fact, a certified copy of which has been transmitted to the President of the Senate as follows:

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, June 5, 1890.

SIR: Pursuant to the order of the court I transmit herewith a certified copy of the findings of fact filed by the Court of Claims June 2, 1890, in the aforesaid cause, which case was referred to this court by the Committee on Claims of the Senate of the United States under the act of March 3, 1883.

I am very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

PRESIDENT OF THE UNITED STATES SENATE.

[Court of Claims. Congressional Case No. 32. George H. Plant v. The United States.]

At a Court of Claims held in the city of Washington on the 2d day of June, A. D. 1890, the court filed the following findings of fact, to wit:

FINDINGS OF FACT.

The claim or matter in the above-entitled case was transmitted to the court by the Senate Committee on Claims on the 27th day of February, 1884.

Messrs. Goode and Goode, esqs., appeared for claimant, and the Attorney-General, by Henry M. Foote, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing on the 19th day of May, 1890, the court, upon the evidence and after considering the briefs and arguments of counsel on both sides, finds the facts to be as follows:

I.

About sundown on May 30, 1874, a collision occurred on the Potomac River, nearly opposite Fort Washington, between the United States steamer *Gettysburg* and the *Lady of the Lake*, under the following circumstances:

The *Lady of the Lake* had been down the river, with an excursion party from Washington, consisting of about 600 persons, and was on her return trip.

The Gettysburg, commanded by Lieutenant McRitchie, was going down.

When first sighted the steamers were about three-fourths of a mile apart. At that time the *Lady of the Lake* was on the Virginia side of the river and the *Gettysburg* on the Maryland side.

By the law of the road, each steamer was required to keep to the right, in passing, but the law also permitted them, by signal agreement, to keep to the left.

The officers of the *Lady of the Lake* preferred to hold their course on the Virginia side, because by so doing they avoided, to some extent, the rapid current of the ebbing tide. They also supposed the *Gettysburg* would prefer the Maryland side, because the channel there was deepest and the assisting current strongest.

Therefore, when the steamers were about half a mile apart, the pilot of the *Lady of the Lake* gave two blasts of her steam-whistle, which was the proper signal to request that the steamers might pass, by each keeping to the left. The pilot of the *Gettysburg* immediately responded by two blasts of the whistle, which was the proper signal of assent to the proposal. Each steamer then held her course for about a quarter of a mile. Then the *Gettysburg*, by order of Lieutenant McRitchie, gave one blast of her whistle, which is the proper signal for each vessel to keep to the right; and immediately ported her helm, thus directing her course to the Virginia side of the river. The *Lady of the Lake* immediately responded with two blasts of the whistle, thus indicating her wish to pass on the left, as already agreed, and held her course. A collision was imminent, and both steamers reversed their engines, but collision could not then be avoided.

The bow of the *Gettysburg* struck the *Lady of the Lake* on her starboard bow, crushing in the upper and lower decks. No persons were injured.

Both Lieutenant McRitchie and the claimant agree in their testimony that the signals were given and heard by the officers of each steamer, as above detailed.

The *Gettysburg*, by porting her helm and directing her course to the Virginia side of the river, without timely warning, caused the collision.

II.

The rule established by the Board of Supervising Inspectors, under section 29 of the act of February 28, 1871 (16 Stat., 450), to be observed by steam vessels in passing each other on rivers is as follows:

"RULE 1.—When steamers are approaching each other 'head and head,' or nearly so, it shall be the duty of each steamer to pass to the right, or on the port side of the other; and the pilot of either steamer may be first in determining to pursue this course, and thereupon shall give, as a signal of his intention, one short and distinct blast of his steam-whistle, which the pilot of the other steamer shall answer promptly by a similar blast of his steam-whistle, and thereupon such steamers shall pass to the right, or on the port side of each other. But if the course of such steamers is so far on the starboard of each other as not to be considered by the pilots as meeting 'head and head,' or nearly so, or if the vessels are approaching each other in such a manner that passing to the right (as above directed) is deemed unsafe by the pilot of either vessel, the pilot so first deciding shall immediately give two short and distinct blasts of his steam-whistle, which the pilot of the other steamer shall answer promptly by two similar blasts of his steam-whistle, and they shall pass to the left, or on the starboard side of each other.

["NOTE.—In the night steamers will be considered meeting 'head and head' so long as both the colored lights of each are in view of the other. In the day a similar position will also be considered 'head and head.'"]

III.

June 9, 1874, the Secretary of the Navy constituted, by the following order, a naval court of inquiry:

To Commander JOHN H. RUSSELL,
U. S. Navy, Rockville, Md.:

By virtue of the authority conferred by the "Act for the better government of the Navy of the United States," approved July 11, 1862, I hereby appoint Commander John H. Russell president, Commander Montgomery Sicard and Lieutenant-Commander Frederick Rodgers members, and First Lieutenant George C. Reid, of the Marine Corps, judge-advocate of a court of inquiry, which is ordered to convene at the navy-yard, Washington, D. C., on Thursday, the 11th day of June, 1874, for the purpose of investigating all the circumstances relating to the collision which took place on the Potomac River, near Fort Washington, on or about the 30th day of May, 1874, between the United States steamer *Gettysburg* and the steamboat *Lady of the Lake*. In performing this duty the court will study closely "the Rules of the Road" and act of Congress relating thereto, and state the cause or causes that brought about the collision, with its opinion as to where the blame, if any, should rest.

Given under my hand at the Navy Department of the United States this ninth day of June, in the year eighteen hundred and seventy-four.

GEORGE M. ROBESON,
Secretary of the Navy.

June 19, 1874, the court found as follows:

That both the United States steamer *Gettysburg* and the steamboat *Lady of the Lake* were subject to the act of Congress approved April 29, 1864 (page 158, Naval Laws), for preventing collisions on the water, and in addition to the above the court find that the *Lady of the Lake* was subject to certain rules laid down by the Board of Supervising Inspectors in pursuance of the act of Congress of February 28, 1871.

There is no conflict between these two sets of "rules," but the rules of the Board of Supervisors supplement the naval "Rules of the Road" by certain whistle blasts or signals to be used between vessels, subject to the direction of the Board of Supervising Inspectors.

As regards the facts connected with the collision, the weight of evidence in the opinion of the court establishes the point that the vessels, at the time of the exchange of their first whistle signals, must be considered as coming under article 13 of the "rules" for preventing collisions on the water (Naval Laws, page 161), and also under Rule 1 of the "Rules issued by the Board of Supervising Inspectors for the government of Pilots"; that is, they were meeting end on, or nearly so. In this position the law requires that the helms of both vessels be put to port, and inasmuch as this course was not pursued by the *Lady of the Lake* the court deem that vessel to have acted in violation of law, and find that her pilot committed an error of judgment in putting his helm to starboard.

At the same time, as the wording of the law (article 13), "end on or nearly end on," implies a certain margin for judgment on the part of pilots the court are of the opinion that the pilot of the *Lady of the Lake*, though technically in the wrong, can not in the circumstances be considered as being very censurable.

As the vessels are considered as coming within the scope of article 13 of the law for preventing collisions on the water the court find that the *Gettysburg* acted in violation of law in answering the *Lady of the Lake's* two whistles and in putting his helm to starboard, and that the fact of her pilot having done those acts renders her responsible for the collision.

The pilots of the two vessels are therefore considered by the court as having been principally to blame for the collision. Lieut. McRitchie was following the "rule of the road" in putting his helm a-port, as the weight of evidence shows that if both vessels had done so from the first signal the collision would in all probability have been avoided.

But when it became evident that the *Lady of the Lake* did not pursue the same course, and that a collision was very probable, he would, in the opinion of the court, have been justified in shifting his helm (in accordance with article 19, page 162, Rules of the Road—Naval Laws).

The evidence shows that after a collision became probable, both vessels stopped and reversed their engines, in conformity with article 16, "Rules of the Road," page 161—Naval Laws.

JOHN H. RUSSELL,
Commander, U. S. Navy, President Naval Court of Inquiry.
GEORGE C. REID,
First Lieutenant, U. S. Marine Corps, Judge-Advocate.

The Treasury Department also authorized an investigation by the supervising inspectors of steam vessels, who made the following report:

OFFICE OF UNITED STATES LOCAL INSPECTORS OF STEAM VESSELS,
Baltimore, July 17, 1874.

JOHN HENSHAW, Esq.,
Supervising Inspector of Steam Vessels, Third District:

SIR: In compliance with your instructions we proceeded to Washington, D. C., to take the testimony of witnesses in the collision between the United States steamer *Gettysburg* and steamer *Lady of the Lake*, which occurred on the Potomac River, off Fort Washington, on the evening of the 30th of May, 1874, and, after having received said testimony, both on the part of the officers of the *Lady of the Lake*, together with a number of disinterested passengers of said steamer, we find that the pilot in charge of the *Lady of the Lake* complied with all the rules and regulations for the government of pilots, applicable to said case, and is therefore exonerated from all blame in the premises.

(They report also their inability to get the officers of the *Gettysburg* to testify.)

JAMES D. LOWRY,
WILLIAM O. SAVILLE,
United States Local Inspectors of Steamers, Baltimore District.

IV.

May 30, 1874, the claimant was the owner of the *Lady of the Lake*, except a small interest, valued at $2,500, which he had agreed to transfer to ——— Partridge, the captain of the boat. This interest had not been paid for and claimant arranged with Capt. Partridge for it and took it back.

V.

At the time of the collision the *Lady of the Lake* was engaged in the business of carrying freight and passengers between Washington and Norfolk and taking excursion parties up and down the river. It was the busy season of the year and her business was large and profitable.

The cost of repairing the boat amounted to $2,216.85. The loss in earnings while undergoing repairs amounted to $3,000.

After resuming her regular trips her earnings, in consequence of the interruption and loss of confidence in her safety, were much diminished. This loss can not be accurately calculated.

BY THE COURT.

Filed June 2, 1890.
A true copy.
Test, this 5th day of June, A. D. 1890.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

In view of the facts as found by the court and of the uniform practice of the Government to afford relief in similar cases, your committee report back the accompanying bill and recommend its passage, with an amendment striking out "six thousand seven hundred dollars," in lines 6 and 7, and inserting "five thousand two hundred and sixteen dollars and eighty-five cents."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 512.

POTOMAC STEAMBOAT COMPANY.

MARCH 2, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOUD, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1469.]

The Committee on Claims, to whom was referred the bill (H. R. 1469) for the relief of the Potomac Steamboat Company, have had the same under consideration and report as follows:

This claim has been fully investigated and favorably reported on by the Senate and House Committees on Claims during the Fiftieth and Fifty-first Congresses. At the last session of Congress the Senate Committee on Claims made the report hereto appended. Your committee adopt that report and recommend the passage of the accompanying bill.

[Senate Report No. 2309, Fifty-first Congress, second session.]

The Committee on Claims, to whom was referred the bill (S. 470) for the relief of the Potomac Steamboat Company, have examined the same and report as follows:

The history and leading facts of this case are set forth in the appended report of the House Committee on Claims during the first session of the Fiftieth Congress, to whom a similar bill was referred by the House of Representatives, and upon which said committee made a favorable report, which is hereby adopted:

[House report, Fiftieth Congress, first session.]

The Committee on Claims, to whom was referred the petition of the Potomac Steamboat Company to be reimbursed a certain sum of money paid by them to the Baker Salvage Company, under a decree of the Supreme Court of the United States, for services rendered by them in rescuing the steamer *Excelsior*, sunk by the United States steam-tug *Fortune*, beg leave to report that the evidence submitted to them in support of the said petition shows the following facts:

First. On the afternoon of the 4th of December, 1882, the steamer *Excelsior*, belonging to the Potomac Steamboat Company, left her dock at Norfolk, steamed down the Elizabeth River and into Hampton Roads, heading the usual course to make a landing at Old Point wharf. As the *Excelsior* was heading the aforesaid course in Hampton Roads at or near 6 p. m., the United States steam-tug *Fortune* came into collision with her. The *Fortune* struck the *Excelsior*, which is of wood, on the starboard bow, making a hole in her hull at least 8 by 10 feet; and it being apparent that the *Excelsior* must otherwise sink in deep water from the quantity she was making in her hull through the hole in her bow, she was promptly headed for the shore, going ashore on the south side of Hampton Bar at or about its middle point, where she sank full of water, with a hole extending from her hurricane deck far down under water, lying almost head onto the shore, in water ranging in depth from 67 feet at her bow and from 10 to 12 feet at her stern.

Second. That on December 5, 1882, a naval board was convened by order of Rear-Admiral Cooper, commanding United States naval force on North Atlantic station, to investigate the circumstances attending the said collision and to ascertain the injuries received, the *probable* amount of damages, etc.

Third. That it appears from the report made by the said naval board that the said collision was occasioned by the negligence of the officers in command of the United States naval tug *Fortune*.

Fourth. That in the act of Congress approved March 3, 1883, making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1884, the sum of $19,957.15 was appropriated to enable the Secretary of the Navy to pay the Potomac Steamboat Company the amount found to be due them by a board of naval officers appointed to ascertain the damage occasioned by the negligence of the officers in command of the United States naval tug *Fortune* in running down the said company's steamer *Excelsior* in Hampton Roads, Virginia, December 2, 1882.

Fifth. That subsequently to the passage of said act, to-wit, on the 24th day of October, 1887, the Supreme Court of the United States rendered a decree affirming the decree of the circuit court of the United States for the eastern district of Virginia in a suit in admiralty for salvage brought by the Baker Salvage Company against the steamer *Excelsior*, by which it was ordered and decreed that the said Baker Salvage Company do recover the sum of $5,600, with interest from the 21st of February, 1884, until paid, at the rate of 6 per cent per annum, and the cost of suit.

Sixth. That the said Potomac Steamboat Company have paid to the said Baker Salvage Company the sum of $— in compromise of the said suit and $90 commissions of clerk of court, costs, etc., making altogether the sum of $5,390. In consideration of the foregoing facts your committee are of the opinion that the said Potomac Steamboat Company are entitled to be reimbursed the said sum of $5,390 so paid by them to the said Baker Salvage Company.

They therefore report the accompanying bill and recommend its passage.

In addition to the facts set forth in the foregoing House report, your committee would further state that the appropriation of $19,957.15, made by the appropriation bill of March 3, 1883, for the relief of the Potomac Steamboat Company, was not intended to cover any claim for salvage money, as the whole history of the case shows. A suit was then pending in the circuit court for the eastern district of Virginia between the Baker Salvage Company and the said steamboat company, wherein it was to be determined whether any salvage was due, and if so, what was its amount. The aforesaid appropriation, therefore, could only have been, and on its face was only intended to be, in payment of perfected claims which said steamboat company then had. When the fact that such salvage was due, and its amount, were ascertained by the decree of said circuit court, and its decree was affirmed, as it afterward was, by the Supreme Court of the United States, then surely it became one of the plainest grounds of claim against the Government, inasmuch as the raising of a vessel sunk by a collision was an absolutely necessary step toward saving the property from destruction.

Your committee therefore recommend the passage of the bill.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 513.

ANACOSTIA AND POTOMAC RIVER RAILROAD COMPANY.

MARCH 2, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. HEARD, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 2786.]

The Committee on the District of Columbia have had under consideration the bill (H. R. 2786) to amend the charter of the Anacostia Street Railway Company, and beg leave to report thereon, recommending its passage when amended as the committee suggests.

The object of the bill is to authorize the said railroad company, whose line now lies exclusively south and east of Pennsylvania avenue, to run its cars over the tracks of the Metropolitan and Belt Line roads, on Sixth and F streets, and over the Belt Line on Eleventh street; and then by connecting its said line on B street north with said lines in Sixth and Elèventh streets to give it a continuous line to and along F street from Sixth to Eleventh, thus giving the patrons of the Anacostia road the means of getting to the Government Departments and the business houses located in that portion of the city.

Your committee finds that no objection is made by the railway lines over which the amendment authorizes the Anacostia Company to run its cars, if the route be changed from Sixth to Ninth street, and along F street from Ninth to Eleventh street. Your committee recommend, however, that the route be changed from Sixth to Ninth, but also recommend that it should not stop at F street, but continue one square further on Ninth street to G street and run over the tracks of the Eckington and Soldiers' Home Railway on G street from Ninth to Eleventh streets, and over the Belt Line on Eleventh and E streets back to the Metropolitan tracks on Ninth street, and thence south over the Metropolitan tracks to B street, thus connecting the Anacostia with the Eckington and Soldiers' Home road, as well as with the other two. The owners of the Eckington and Soldiers' Home Railway make no objection to such use of its track on G street, but agree with the owners of the Anacostia line to a mutual transfer of passengers at one fare. There has been no objection presented by anybody living along, or interested in property on, the proposed extension.

Your committee regard the bill, when amended as they suggest, as a very important one and one against which not a single objection has been made or can be sustained.

Amend the bill by striking out all after the word "company" in line 7 of section 1, down to and including the word "market" in line 13 of same section, and inserting in lieu thereof the following:

To lay tracks and switches and run cars as follows: From the intersection of its tracks at Ninth street with B street northwest north on Ninth street to G street

northwest over the tracks of the Metropolitan Railway Company; thence west on G street northwest to Eleventh street northwest over the tracks of the Eckington and Soldiers' Home Railway Company; thence south on Eleventh street to E street northwest, and east on E street to Ninth street on the track of the Capitol, North O Street and South Washington Railway Company, thence south on Ninth street to B street on the tracks of the Metropolitan Railway Company.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 514.

LABOR STATISTICS.

MARCH 3, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BUNTING, from the Committee on Labor, submitted the following

REPORT:

[To accompany H. Res. 99.]

The Committee on Labor, to whom was referred H. R. 154, have considered the same, and recommend the adoption of the accompanying substitute and that H. R. 154 do lie on the table.

The law of June, 1888, establishing a Department of Labor mentions among the duties of such Department the acquiring and diffusing among the people of the United States information on subjects of labor, its relation to capital, the hours of labor, the earnings of laboring men and women, and the best means of promoting their material, social, intellectual, and moral prosperity.

Aside from a well equipped inside force, consisting of statistical experts, stenographers, translators, and copyists, the law provides for the continuous employment of twenty special or outside agents who are expert in their line and whose special training makes their summaries both systematic and reliable.

This valuable Department, while its scope is somewhat general, has also made exhaustive reports of special subjects, such as convict labor, strikes and lockouts, railroad labor, working women in large cities, cost of producing iron, steel, etc. At present the Department, acting conjointly with the Senate Finance Committee, is compiling summaries covering the relative labor cost as compared to selling prices in commodities of domestic manufacture.

Your committee believes that this list of subjects may well be supplemented by a research into the effects on the creative cost of domestic products of manufacture, owing to the use of improved machinery, better facilities, and more skillful labor, as set forth in the resolution proposed.

This Government is predicating a great national policy on the hypothesis that through protection, subsidies, and bounties springs competition, and that through competition comes cheaper cost and lower prices to consumers. In opposition to this theory persists the argument of a great party and a major part of the people of the Government that competition never lowered the creative cost of any article of manufacture, but that the blessings of a low creative cost come from economy in securing cheap raw material, and the equally essential advantage of improved machinery and better facilities, which are the handiwork of the enlightened labor and the practical genius of America.

The committee believes that when we shall succeed to a comprehensive *appreciation of our matchless* resources as a nation—our mountains

of minerals, boundless acres of fertility, wooded valleys and hills, unharnessed cataracts and water ways, which, like human arteries, permeate the body material of a diversified continental commerce—that when we can unchain from dogmas to measure the possibilities of a civilization that inspires noble effort and lofty ambition, which in turn begets tact, genius, and inventiveness, we shall, as a people, come to deprecate more and more *protection* as *perpetuated*, and the country will resent more and more the implied stigma to its people and its bounty of a policy which proclaims national weakness.

The information sought through this resolution will enable us to summarize with mathematical precision the potency of material recourse under the manipulation of the enlightened artisan and practical genius.

It is not alone the introduction of improved machinery, but the aptness of our intelligent laborer to devise unpatentable devices and conveniences to assist his handiwork, that has contributed to a lower range of creative cost in American products. The Patent Office does not bear testimony to his tact and genius, but the profit of his labor tells potentially among the agencies which reduce cost.

W h in many individual and local instances the sum total of advantages which come of apt and energetic labor, novel devices, and improved machinery fully measures the decline in creative cost of our domestic products for the past forty years, it is expected that the reliable data called for under this resolution will establish it as a rule rather than an exception, and thus disarm the high-protection theorist of a convenient claim that all our prosperity is due to protection and that sunshine and showers are the rewards of a tariff.

The outcome of the adoption of this resolution will also force us as a people to be manly enough to place credit where it belongs in the economy of national development. Standing on the foundation of a wealth of resource unequaled in the broad domain of creation, let us not blindly withdraw homage from the animate benefactors whose patient research into mechanical art has bestowed facilities commensurate to nature's abundant riches and has thus accelerated the speed of the nation's development.

The prophet of the present, amid its bewildering realities, is impotent to forecast the wondrous possibilities which are sure to flow from such a wealth of available resources.

The future will undoubtedly prove a peroration to a civilization grand and inspiring, an ambition pure and ennobling, a genius practical and penetrating; and we shall come to look upon Franklin, Morse, Howe, Fulton, McCormic, and a host of their inventive allies and descendants as no less important as components in the economy of our development than the patriots who established our independence, the religion that planted our civilization, or the statesmen whose decrees made permanent our freedom.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 515.

INTERMEDIATE RATE OF PENSION BETWEEN $30 AND $72.

MARCH 3, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MCKINNEY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5686.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5686) to establish an intermediate rate of pension between $30 and $72 per month, submit the following report, and recommend the passage of the bill:

Aside from the rates provided for certain permanent specific disabilities, such as amputation of arm or leg, there is at present no intermediate rate of pension between $30 and $72 per month. The rate of $30 per month is provided by act of March 3, 1883, for soldiers who are "so disabled as to be incapacitated for performing any manual labor, but not so much as to require regular personal aid and attendance." The rate of $72 per month is provided by the act of June 18, 1874, as amended by the act of June 16, 1880, for those who are "so permanently and totally disabled as to require the regular personal aid and attendance of another person."

The necessity of an intermediate rate is obvious. There are at present on the pension rolls numerous cases where the rate is $30 per month, but in which the disability is clearly greater than the degree contemplated by the act fixing the $30 rate. These cases frequently present disabilities arising from partial and progressive paralysis, such as to render the afflicted person liable to bodily injury from falling on the streets, and yet not requiring regular personal aid and attendance. There are also cases presenting several severe and dangerous disabilities the combined rates for which would far exceed $30, but which can not be adequately pensioned by thus combining the several rates. It is not necessary to elaborate the thought here suggested.

On the other hand there is reason to believe that the law fixing the $72 rate has been somewhat and almost unavoidably abused through the sympathy that naturally attends the adjudication of a claim where the present rate of $30 is clearly inadequate, and by this means in the absence of any intermediate rate certain pensions have no doubt been increased from $30 to $72 which should not strictly have been included in the higher grade. This state of facts is not only a probable one under the circumstances, but it is admitted by the Secretary of the Interior that such has been the case, and he recommends that some such legislation as that contemplated by this bill should be enacted.

The only objection which can be urged against this bill are, first, that *it may possibly be liable to* abuse, whereby applicants for increase may

by *ex parte* testimony undertake to establish the fact that their degree of disability is such as to require "frequent and periodical aid and attendance of another person" when in fact they are not so greatly disabled. It is clear that the acts fixing the $30 and $72 rate are at least equally open to this objection, and in this bill it is sought to reduce this danger to a minimum by the provision that the increased rate shall date from the date of report of the board of examining surgeons showing such degree of disability. Under this provision the finding of the board of surgeons is given precedence, and this may be supplemented, of course, but not controverted or negatived, by *ex parte* testimony.

Another objection which may be suggested is that those persons who are now drawing the rates provided for permanent specific disabilities, such as amputation of arm or leg, and thus pensioned at $30, $36, or $45, will apply for and possibly receive the increased rate of $50. It hardly need be stated that this bill is not designed to include disabilities of that class where the amputation is not complicated or the disability materially increased by other and additional causes chargeable to the military service. It is manifestly erroneous to say that any amputation which has left a sound stump or a healed cicatrix does in itself so disable a man as to render him "totally incapacitated for performing manual labor to such a degree as to require frequent and periodical aid and attendance of another person." It is, therefore, not apprehended that any difficulty will arise in the administration of the law, if this bill shall become a law, growing out of application for increase by those persons who are now pensioned at specific ratings.

On the other hand it was not deemed expedient to place a clause in this bill excluding from its benefits all persons who are pensioned at specific rates for amputations, lest this provision might work a hardship to certain deserving soldiers whose disability therefrom is greatly augmented by other disabilities, diseases, or complications.

The proviso relative to total deafness is designed as a recognition of the great disability, inconvenience, humiliation, and inability to secure employment which arises in the case of those who are totally and absolutely deaf. It is designed also to emphasize the fact that there is a wide difference in the condition of those who are severely deaf in both ears and those who are absolutely and totally deaf, and for the reason no provision is made for an increased rate for the varying degrees of partial deafness, which will continue to be pensioned according to the provisions of the act of August 27, 1888.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 516.

DUPLICATE TAX LEDGERS.

MARCH 3, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON, of Ohio, from the Committee on the District of Columbia, submitted the folowing

REPORT:

[To accompany H. R. 5118.]

The Committee on the District of Columbia, to whom was referred House bill 5118, has considered the same and recommends that it be amended by striking out of the fourth line in the title the word "ninety-two" and inserting "eighty-two." The amendment merely corrects an error of date.

The effect of this bill is to change the present law so as to conform to the practice of the assessor's and collector's office by abolishing the requirement that duplicate tax ledgers shall be prepared by the assessor and turned over to the collector. This would entail a heavy expense upon the District without any adequate benefit, if indeed it should not prove a detriment. The bill requires that instead of duplicate ledgers there shall be triplicate statements showing the total amount of the assessment and the total amount of the taxes to be collected under said assessment made out by the assessor and receipted for by the collector. The bill proposes that all tax bills shall be made out under the direction of the assessor, instead of the collector, as would be the case under the present law.

The change proposed is in the paragraph relating to the duties of the assessor, commencing with the fourth line from the bottom of page 460, and ending with and including the eighth line from the top of page 461, of volume 21, United States Statutes at Large.

When so amended the committee recommends that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 517.

TAX SALES AND TAXES.

MARCH 4, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON, of Ohio, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 4845.]

The Committee on the District of Columbia, to which was referred House bill 4845, has considered the same and recommend that it be amended by striking out on page 2, line 24, all after the first two words; all of lines 25 and 26, and the first four words of line 27, and insert:

Shall be a bar to the collection and recovery from any subsequent purchaser of any tax or assessment omitted from and which may be a lien upon the real estate mentioned in said certificate; and said lien shall be discharged as to such subsequent purchaser, but shall not affect the liability of the person who owned the property at the time such tax was assessed to pay the same.

The only effect of this bill is to require the assessor instead of the collector to make out and sign unpaid tax certificates. The present law requires the collector to perform this work, when the assessor is the only official who has the necessary information. The present practice is in accord with the proposed change in the law. The amendment suggested preserves that part of the law as it is, the committee having determined that part of the change proposed in the bill to be unwise.

The section of the law that this bill amends will be found on page 283, volume 20, United States Statutes at Large.

When so amended the committee recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 518.

TIME FOR MAKING ASSESSMENTS IN THE DISTRICT OF COLUMBIA OUTSIDE OF WASHINGTON AND GEORGETOWN.

MARCH 4, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON, of Ohio, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 5978.]

The Committee on the District of Columbia, to whom was referred House bill 5978, has considered the same and recommends that it be amended by striking out in section 2, line 3, "Monday" and inserting "day," and in section 3, line 5, striking out "eighty-seven" and inserting "seventy-seven."

The first amendment changes the time for the meeting of the board of equalization from Monday the 5th to Thursday the 1st of December, giving an entire month instead of twenty-five days for the session of the board.

The second amendment is to correct an error in date.

The effect of this bill will be to change the law during the fiscal year ending 1893 only, giving the assessors six months longer in which to complete the assessment of that part of the District of Columbia outside of the cities of Washington and Georgetown. Under the present law they are required to complete this assessment by the first Monday of June, 1892, and the work of equalization by the first Monday in August, 1892. It also changes the time of paying the first half of the tax levy on that part of the District above referred to from one-half, due in November, 1892, to May, 1893, making the entire tax payable on the latter date. This is made necessary from the fact that the Fifty-first Congress changed the law from a periodical assessment made by twelve assessors employed for a short time to a permanent board composed of three assessors. This new board has about completed the work of assessment of the two cities, but finds it impossible to entirely complete in the time required the remaining assessment, failure to do which might invalidate the entire tax levy, and as the work is being carefully prepared it is deemed wise to give them the additional time. There is necessarlily more labor in the preparation of the first assessment under the new law than is likely to be required hereafter.

The sections of the law that sections 1, 2, and 3, of this bill propose to amend will be found on page 569, section 7, volume 21; page 396, volume 19, and page 1064, volume 26, United States Statutes at Large.

Section 4 proposes to change part of section 9, page 570, volume 22, United States Statutes at Large, by repealing the provision in that section that prohibits the board of equalization from decreasing the amount of the assessment below the amount certified to them by the

assessors. This, in practice, would prevent the correction by the board of equalization of errors where assessments were too large, and only permits them to increase assessments instead of decreasing or increasing the assessment as in their judgment seemed warranted by the facts, which is the object of the work of equalization, and would require the board of equalization in case a decrease in the amount of any assessment became necessary to increase the amount of some other assessments which in their judgment should remain as reported.

When so amended, the committee recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 519.

DEFICIENCY APPROPRIATION FOR DEPARTMENT OF AGRICULTURE.

MARCH 3, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HATCH, from the Committee on Agriculture, submitted the following

REPORT:

[To accompany H. R. 6836.]

The Committee on Agriculture beg leave to report the accompanying bill making appropriations to supply deficiencies in the fund for carrying into effect the provisions of an act providing for the inspection of live cattle, hogs, and the carcasses and products thereof, approved March 3, 1891, and to continue experiments in the manufacture of sugar, and would respectfully recommend favorable and prompt action in order that the funds be made immediately available.

The necessity for the funds will be shown by the accompany letters from the Secretary of Agriculture and from Dr. D. E. Salmon, chief of the Bureau of Animal Industry, and Prof. H. W. Wiley, chief of the division of chemistry.

FEBRUARY 1, 1892.

SIR: I have the honor to request your early consideration of an item in the Book of Estimates for appropriations for the Department of Agriculture for the fiscal year 1892, which provides for carrying on the work of the Bureau of Animal Industry.

The item referred to is found on page 74 of the said Book of Estimates, and is as follows:

"Carrying out the provisions of the act of March 3, 1891, providing for the inspection of live cattle, hogs, and the carcasses and products thereof, which are the subjects of interstate commerce, and for other purposes, the sum of five hundred thousand dollars, two hundred and fifty thousand of which to be immediately available."

As you no doubt remember, the cattle and meat inspection law, the title of which has just been quoted, was approved March 3, 1891, or the day preceding the adjournment of the Fifty-first Congress. There was consequently no opportunity for Congress to provide for the increased expenditures necessary for carrying out the provisions of this law. The great importance of the measure, however, together with the popular wish to have it enforced at once, and the desirability of doing this in order to strengthen the hands of this Government in its negotiations for the removal of the prohibition which had been so long enforced against our pork, led me to put this inspection in operation at once, and meet the expenditures out of the lump fund appropriated for the work of the Bureau of Animal Industry.

By practicing rigid economy, the inspection of live cattle and meats has been established and maintained at the largest packing houses, the practicability of inspection has been demonstrated, the reputation of our inspected meats has been established, and as a result the prohibitions against our pork have been removed. There are many packing houses, however, where inspection has been demanded, and where it should be organized, but where I have been unable to grant it with the funds at my disposal.

I should also state that our shippers have been unable to obtain a sufficient quantity of inspected meat to fill the orders from those countries which will only

admit pork covered by the certificates of inspection issued by this Department. The present inspection is, therefore, a hardship to and a discrimination against houses to which we have been unable to extend it, and it is not conducted on a scale of sufficient magnitude for our country to reap the full benefits which should be obtained from the opening of the continental markets. In spite of the limited force and of practicing the utmost economy, the appropriation for the Bureau will be exhausted, at the present rate of expenditure, early in April.

If this work of inspection is to be continued and developed as contemplated in the act of March 3, 1891, it will be necessary that a deficiency appropriation be made at an early day. As the regular appropriation bill will probably not be passed in time to meet this emergency, I would request a deficiency appropriation of $150,000.

The deficiency appropriation herein asked for may be deducted from the estimates for the Bureau of Animal Industry, which are now before Congress, as the amount included in the estimates for the Bureau of Animal Industry is considered sufficient to cover the expenditures for this fiscal year, and also for the year ending June 30, 1893.

I feel assured that both the Committee on Agriculture and Congress realize the importance of continuing and extending the work of inspection, and that the amount herein asked for will be granted before the funds at my command are exhausted.

I would further ask your attention to an item on page 75 of the Book of Estimates for an appropriation for experiments in the manufacture of sugar, and particularly to that portion of said item directing culture experiments to be made looking to an improvement in the growing of sugar cane, sugar beets, and sorghum as sources of sugar supply. To successfully make such experiments, it is necessary that they should be undertaken at the commencement of the planting season, and an appropriation made, therefore, to go into effect on July 1, 1892, the beginning of the next fiscal year, would be of no avail in carrying on this line of experiment.

I would suggest, therefore, that your committee, in addition to providing for an appropriation to be immediately available for carrying on the work of the Bureau of Animal Industry for the remainder of the present fiscal year, should include in it an item appropriating $10,000 for making culture experiments in sugar cane, sugar beets, and sorghum as sources for the production of sugar.

Very respectfully,

J. M. RUSK,
Secretary.

Hon. WILLIAM H. HATCH,
Chairman Committee on Agriculture,
House of Representatives.

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF ANIMAL INDUSTRY,
Washington, D. C., January 26, 1892.

DEAR SIR: In accordance with your request, the following statement is made for the information of the subcommittee on the Bureau of Animal Industry, in addition to that contained in the report of the operations of the Bureau of Animal Industry sent to Congress December 14, 1891.

The object and importance of the various lines of work conducted by the Bureau have been treated at considerable length in the report referred to, but the expenditures for the coming year were not therein estimated.

The expenditures for inspection vary somewhat according to the volume of trade which is carried on at different seasons and in different years, and for that reason the estimates can be only approximative. The inspection for export cattle, import animals, and the stock-yard inspection, so far as can be foreseen, would not vary materially from the figures given below.

The cost of the pleuro-pneumonia work we hope to reduce, but the disease is now confined to a small section, and it is essential to the interests of our export trade that it should be completely stamped out at the earliest possible moment. The expenditures for this line of work are now at the rate of $100,000 per annum. The amount of this disease found is liable to variations depending upon the seasons of the year and many other conditions. As all outbreaks must be promptly handled, a shortness of funds would be disastrous to this work. In all probability the expenditures for this purpose will be less than the sum named, but it is not safe to make a lower estimate, because there is a possibility of the disease spreading and of new outbreaks being discovered.

In the meat inspection it is necessary, under the present law, to inspect about all of the carcasses of beef, mutton, and veal which go into interstate commerce. Our present work indicates that we will be called upon to inspect 5,000,000 carcasses of

beef, 4,000,000 of mutton, and 200,000 of veal. In order to secure the full benefits of the markets which have been recently opened to American pork, there should be a sufficient number of hogs inspected to have always on hand a sufficient supply of inspected pork for shipment to foreign countries.

Our exports have been in the past from 30 to 46 per cent of the hog product turned out by the packing houses of the country. It is true much of this does not go to the countries requiring inspection, but, on the other hand, much pork must be inspected which will be sold at home or sent to countries not demanding the inspection. There are from 20,000,000 to 23,000,000 hogs annually killed at the packing houses, and I estimate that in order to fulfill the requirements of the trade not less than 7,000,000 carcasses must be inspected.

The scientific investigations and the investigations of swine diseases are extremely important to the stock industry, and should be continued to about the same extent as at present. The Bureau is now making preparations to supply the State experiment stations and State live-stock sanitary boards with tuberculin and mallein for the diagnosis of tuberculosis and glanders. These substances are formed during the growth of the germs of these diseases in artificial cultures, and are then separated from the culture liquids by appropriate methods. Their preparation requires such scientific and technical skill that they can not be made elsewhere in this country with safety. They are, however, of such great value in determining whether an animal is or is not affected with these diseases that there should be some place where they can be obtained in a pure and uniform condition.

The collection of information in regard to the condition and needs of the live-stock industry and the investigations of reported diseases are among the most important branches of work that the Bureau is conducting for the benefit of the general farmer, and for these I also make the lowest estimates which are justified by a review of this work in the past.

The publications of the Bureau being necessary to place the information obtained before the farmers and allow them to utilize it, are also essential to the success of the Bureau's work.

Putting these items together, we have the following detailed statement:

Inspection of export cattle	$100,000
Inspection of import animals	10,000
Stock-yard inspection	25,000
Pleuropneumonia work	100,000
Inspection of 5,000,000 carcasses of beef, at 3 cents	150,000
Inspection of 4,000,000 carcasses of mutton, at 3 cents	120,000
Inspection of 200,000 carcasses of veal, at 3 cents	6,000
Inspection of 7,000,000 carcasses of pork, at 5½ cents	385,000
Scientific investigations	25,000
Investigations of swine diseases	15,000
Investigation of reported diseases	11,000
Pay roll of Bureau at Washington	40,000
Publications	30,000
	1,032,000

There are other lines of work which should be undertaken and developed, but the estimates have been made on the items given above.

It should be stated that since the inspection of export cattle and the stock-yard inspection have been in operation our exports of cattle have been much heavier than for any other equal period since the trade began. In connection with the vessel inspection, which is a branch of the same service, it has secured better quarters and more humane treatment for animals on the voyage; and as a consequence they have arrived in better condition, and the losses have been reduced to a minimum. The insurance rates have been lowered from 8 per cent to less than 3 per cent, making a saving of from $4 to $4.50 on each bullock exported, or nearly $2,000,000 a year on the number now being exported. In addition to this the spread of disease among cattle has been prevented in the United States, the trade has gone on safely without the vexatious local restrictions which a few years ago almost paralyzed it, and confidence has in a great measure returned.

The meat inspection having been made without increased appropriations has not been sufficiently extensive to meet the requirements of the trade. It has developed as far as possible with the means at hand, but there have been many demands for inspection which could not be complied with. This condition does not satisfy the expectations raised by the passage of the meat-inspection law, and it is a particular hardship to those packing houses where the inspection has not been introduced. There is a demand for inspected meats, they are getting a reputation, and uninspected meats are more difficult to handle.

As a result of the pork inspection, the prohibition on our pork, maintained by Ger-

many, Denmark, France, Italy, and Austria-Hungary, has been removed. Since these prohibitions were removed the price of pork has begun to advance, and no doubt the advance would have occurred sooner and been more marked if this Department had been able to inspect enough pork to fully supply the markets of the countries named. As these countries will take nothing but inspected pork, and as enough of this could not be had to meet the demands, the full benefits of the op ning of these markets has not yet been obtained.

The importance of extending this inspection sufficiently to supply all demands for inspected pork, and for fully carrying into effect the act of March 3, 1891, is so apparent that a more lengthy statement on the subject is not deemed necessary.

In the way of publications the Bureau has ready for the Printer a volume on the sheep industry of the United States, which has been held for lack of funds, and which should be published at the earliest practicable moment. It has also nearly ready a volume on the Diseases of Cattle, which will be a companion volume and equally valuable with the work on the Diseases of the Horse, which was distributed during the last year. Other valuable reports are in preparation, including important results of scientific research which have been obtained by years of work, and which the farmers should have the benefit of without delay.

Very respectfully,

D. E. SALMON,
Chief of Bureau.

Hon. J. M. RUSK,
Secretary of Agriculture.

DEPARTMENT OF AGRICULTURE, DIVISION OF CHEMISTRY,
Washington, D. C., February 29, 1892.

DEAR SIR: I am requested by the Secretary of Agriculture to lay before you the needs of the Department during the spring season now approaching with reference to the continuation of the work in experiments in the culture of sugar-producing plants and manufacture of sugar therefrom.

You are aware that during the past two years the Department has changed its course of granting aid to manufacturing establishments trying new processes in the manufacture of sugar, and concentrated its efforts on a permanent improvement of sugar-producing plants and on the trial of entirely new processes of manufacture.

In pursuance of this plan a sugar experiment station has been established in Nebraska, for the purpose of illustrating the best methods of the culture of the sugar beet and the production of sugar-beet seed of the highest grade. This station has been operated now for one year. It has been placed in first-class condition, inclosed with a good and substantial fence, and the necessary buildings for laboratories, sheds, etc., constructed. The very first season showed most encouraging results. The average weight of beets produced per acre was 21 tons, and the amount of sugar contained in the beets nearly 14 per cent. This result was far beyond our most sanguine expectations, especially in regard to the yield por acre. Six standard varieties of sugar beets were experimented with, and from these large quantities of typical beets were selected to be preserved during the winter for planting during the coming spring for the production of seed. Three large silos are now filled with these mother beets awaiting the advent of spring for examination and planting. It is of the utmost importance for the continued success of the beet-sugar industry that these experiments be continued, in order that the methods of determining the processes best suited in this country for the development of sugar beets of high sugar content may be fully illustrated.

In a similar way a station has been established at Medicine Lodge, Kans., for a continuation of the experiments in the development of the sorghum plant and to illustrate a new method of manufacture which has already given indications of success. We have also there erected buildings and made permanent improvements, and have everything in readiness for a continuation of both the cultural and the manufacturing work. By the application of the "alcohol process" for the separation of the gummy matters from the sirup during the past season over 150 pounds of first crystallization sugar ware made per ton, and in all nearly 200 pounds per ton of sugar from sorghum were produced. This is a result which has never before been approximated in the history of the sorghum-sugar industry. The soil and climatic conditions of that part of the country have proved to be the best adapted to the production of sorghum of high sugar content. It is certain, however, that there are large areas south of this point which would be equally effective in producing sorghum. Extending through the Indian Territory, Oklahoma, reaching Arkansas, northern Louisiana, and Texas, are conditions nearly similar to those met with in southern and western Kansas. The development of an agricultural industry suitable to these semiarid

regions is a problem which should engage the efforts of the Department until it is successfully solved.

During the past few years large bodies of swamp lands have been reclaimed by drainage in Florida, and experiments already made show that this body of land is probably well suited to the production of sugar cane. In order to test the possibilities of this region, an experiment station for sugar cane has been established near the town of Kissimee, in Florida, on reclaimed swamp lands. The station land has been cleared, planted in sugar cane, and the necessary buildings erected. It is of the utmost importance that this work should be continued until the demonstration of the possibilities of the soil are complete. There are 500,000 acres of this land in Florida, of which about 50,000 acres have already been reclaimed and the rest is in process of reclamation. Should the final result confirm the indications of the experiments already inaugurated, this body of land in the near future may be found capable of producing as much sugar as is now made in the island of Cuba.

The rapid increase in the consumption of sugar in our country makes it a matter of the utmost agricultural importance to investigate every possible source of supplying this demand with an article of home manufacture. It is for these reasons that the Secretary has seen fit to ask for a special appropriation in order that this work may be continued without interruption until the regular appropriation of the Agricultural Department becomes available on the 1st of July. It is unfortunate for work of this kind that the agricultural year and the fiscal year do not begin at the same time. The agricultural year, beginning practically on the 1st of January, is half over before the fiscal year commences. We have, therefore, either to depend on the appropriation made for the previous year or else upon the liberality of Congress for a special appropriation for the agricultural work. Last year, you will remember, our total appropriation was $50,000. On account, however, of the necessity of inaugurating the work on three new stations and the great expense incident to the improvements necessary for the work under such conditions, we exhausted the appropriation made for last year and left ourselves no funds with which to continue the work during the coming spring.

The work for the coming year will be much less expensive than that of last year. The estimate which the Secretary has made of $30,000 will, I think, enable us to do everything which is now contemplated. The $10,000 which we ask for in the special appropriation, will, of course, be deducted from this $30,000, leaving only $20,000 to be given in the regular appropriation bill.

Trusting that these matters will receive your earnest and favorable consideration, I am,

Respectfully,

H. W. WILEY,
Chemist.

Hon. WM. H. HATCH,
Chairman of the Committee on Agriculture, House of Representatives.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 520.

REFUND OF MONEY TO FREDERICK, MD.

MARCH 3, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4571.]

The Committee on War Claims, to whom was referred House bill 4571, submit the following report:

The bill provides for a refund of ransom levied and exacted, by a Confederate army of invasion, from Frederick City, Md., in July, 1864, and paid to save them from fire and destruction.

Maryland was a loyal State during the war of the rebellion, and especially that portion of it including the town in question. They had complied with every demand of the Government for men and means and furnished more than their quota of able-bodied men, who were then serving in the Army and Navy for the preservation of the Union; moreover, a special force voluntarily raised by them for their especial protection had been ordered into Virginia and were actually on the banks of the James serving with the army of Gen. D. M. Hunter and with the Army of West Virginia, at the very time of the invasion of their homes, thereby leaving them without this protection. Their women were noted for their loyalty, also for their devotion and self-sacrifice in the hospitals, to friend and foe alike, as thousands all over this broad land of ours will attest.

The Confederate army of invasion, commanded by Gen. Jubal A. Early, was especially vindictive in consequence of the then recent destruction by the Federal Army of certain properties in the Shenandoah Valley of Virginia, and in retaliation, as well as for other purposes, they demanded excessive ransoms, especially from Frederick City, Md., which the Confederates thought could not be paid. Thus, as the only means to save their homes from destruction and pillage, these communities created a bonded indebtedness which has necessitated a high tax rate ever since, and remains a heavy burden upon municipalities which have already paid during the last quarter of a century more in interest than the principal.

Relief in this case would not open the gates for an indiscriminate demand upon the Treasury for losses during the civil war, as the relief sought is for protection to loyal municipalities within the lines of the loyal State, not beyond it. The bill is an exceptional one, and one which can not become a precedent, as but three cities within the loyal States during the war for the Union, viz, Chambersburg, Pa., Lawrence, Kans., and Frederick, Md., were either burned or saved from such a fate by the payment of a ransom. The Government has fully

acknowledged its responsibility in similar cases. In its infancy, and while it had slender resources, Congress passed the act approved February 27, 1795 (1 Stats., 423), as follows:

Be it enacted, etc., That the President of the United States be, and he is hereby, authorized to draw, out of the Treasury of the United States, the sum of $8,500, to be applied by him to aid such of the officers of Government and other citizens who have (in consequence of their exertions in support of the laws) sustained losses in their property, by the actual destruction thereof by the insurgents in the western counties of Pennsylvania, as in his opinion stand in need of immediate assistance, to be by them accounted for in such manner as may be directed by law.

Again, after the war of 1812, Congress passed the act approved April 9, 1816 (3 Stats., 263). Under this act and the amendments thereto thousands of dollars were paid to loyal citizens of the United States. These citizens were paid because the Government was supposed to have rendered their property particularly hostile to the enemy. Numerous precedents can be found in sixth Statutes of the United States, pp. 259, 365, 447, 552, 570, 626, 690, 710, 865, etc.; also in the action of the Government through the Court of Commissioners of Alabama Claims in the distribution of the Geneva award to those holding insurance of war risks on vessels in nowise endangered by Confederate cruisers fitted out in British ports; also in the case of French spoliation claimants, etc.

The town mentioned in House bill 4571 was unquestionably entitled to protection from the Government. In fact, the case is especially meritorious, the Government having failed to afford that protection to which it was justly and legally entitled. It is but just that it should be reimbursed to the degree of the liability incurred by procuring that protection from burning and extinction which the Government failed to afford.

Your committee, therefore, recommend that the bill do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 521.

O. F. ADAMS.

MARCH 3, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHELL, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5589.]

The Committee on War Claims, to whom was referred the bill (H. R. 5589) for the relief of O. F. Adams, submit the following report:

The facts out of which this bill for relief arises will be found stated in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 567, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 4494) for the relief of O. F. Adams, having had the same under consideration, make the following report:

The evidence, consisting of the affidavits of the claimant, O. F. Adams, and R. C. Windley, William Ebon, John Albert, and Thomas D. Smaw, shows that on the 1st day of May, 1862, the Federal forces took possession of the jail in the town of Washington, N. C., and used it as a military prison from that day until May 3, 1864, and during all that time, under orders of the Federal officers in command at that place, the claimant (O. F. Adams) acted as jailer and keeper of the said military prison, attending to the prisoners there confined and performing all the duties pertaining to the position of jailer faithfully under promises from the commanding officers that he should be fully paid for his services; and again, in August, 1865, the said jail was taken charge of by the Freedmen's Bureau, and used as a prison until January, 1866, and during all this time the claimant was employed by the officer in charge of said bureau at that place, for which services he has never received any compensation.

From the evidence, your committee find that O. F. Adams served the United States Government in the capacity of jailer twenty-nine months, and that he is justly entitled to receive as compensation therefor the sum of $50 per month.

Your committee therefore report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 522.

GEORGE DENNY, SR.

MARCH 3, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1561.]

The Committee on War Claims, to whom was referred the bill (H. R. 1561) for the relief of George Denny, sr., having had the same under consideration, submit the following report:

It appears from the evidence on file in the case that the claimant, George Denny, sr., of Garrard County, Ky., sold to Capt. T. E. Hall, assistant quartermaster at Camp Nelson, in Jessamine County, Ky., in 1863, a large lot of corn, to be taken from the field by Capt. Hall. The claimant himself testifies that he sold to Capt. Hall 5,000 bushels of corn in the field at $1 per bushel, said Hall to furnish transportation and have it removed. Capt. Hall was relieved before any of it could be removed and Capt. Restieux succeeded him; that Restieux ordered the corn to be hauled away, and a portion was hauled away and paid for. The remainder remained on the ground and rotted, Restieux alleging that he was unable to remove it for want of transportation. The amount left on the ground was 2,000 bushels, for which compensation is now asked at $1 per bushel.

One of the witnesses, now a citizen of Cincinnati, testifies that a portion of the corn was hauled from the field by Government teams, and the remaindier was left at the shocks, shucked out, and, being exposed to the weather, rotted. He says that the claimant was at the camp frequently, urging Capt. T. E. Hall to send for the corn as agreed upon, and informed him of its exposed condition. The witness also says that he was at Camp Nelson a large portion of the years 1862, 1863, and 1864, and had contracts with Capt. Hall to supply grain to the Quartermaster's Department of the U. S. Army. He gives as a reason why Capt. Hall did not haul from the fields the corn sold to him by the claimant, and which rotted in the fields, the fact that said officer did not have at the time sufficient teams for the use of the camp, as an emergency had arisen requiring all the teams that could be spared at Camp Nelson to be sent to Knoxville to supply the army of Gen. Burnside, thus leaving the quartermaster's department at Camp Nelson with a limited supply of teams.

Two of the witnesses testify that they resided on the farm of the claimant in 1863 and the following years, and that he sold Capt. Hall three fields of corn at the price of $5 per barrel; that a portion of the corn was taken away by the Government authorities, and a portion was left on the ground which rotted away and was lost, and that the amount so left on the ground was about 500 barrels.

It appears from a statement on file from the office of the Grand Army of the Republic, that Capt. Restieux has been dead several years. The loyalty of the claimant is fully established by the evidence of leading Union men in his section of the State, among them Judge T. Z. Morrow, Col. W. O. Bradley, and Gen. W. J. Landram.

This claim is similar to that of E. J. Curley allowed by the Congress, which was a claim for a large lot of corn sold by Curley to the same officer, Capt. T. E. Hall, at Camp Nelson, at $1 per bushel, to be delivered in the field. Capt. Hall was to send the proper means of transportation to haul the corn to camp. Capt. Restieux, who succeeded Capt. Hall, was obliged to transfer a large proportion of the means of transportation, so that he could haul only a small portion of the corn purchased. A large part of the corn, therefore, rotted in the field, for which payment was made as above stated.

Your committee are of the opinion that the claimant, Denny, having performed his part of the contract, and that the corn having rotted in the field by the failure of the Government to remove it, he is entitled to compensation, and they report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 523.

PATRICK HYLAND.

MARCH 3, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PATTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 945.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 945) for the relief of Patrick Hyland, having considered the same, respectfully report:

Patrick Hyland enlisted September 9, 1861, in Company B, Sixty-seventh Pennsylvania Volunteers, and served faithfully until January, 1864, when he reënlisted in same organization as a veteran. He went home on veteran furlough in April, 1864, and on the expiration of his leave of absence he was sick in bed with typhoid fever. As soon as he was able to travel he started to rejoin his regiment; while on his way was again taken sick and returned to his home, and there remained sick and unable for duty until the close of the war. His failure to return was unavoidable and from no fault of his.

Your committee submit as a part of their report the soldier's record as given from records of the War Department, and the affidavits of Thomas Fagan, Margaret Soden, and said Patrick Hyland, and recommend that the bill do pass.

Case of Patrick Hyland, late private Company B, Sixty-seventh Pennsylvania Volunteers.

RECORD AND PENSION DIVISION, *July 30, 1890.*

Patrick Helan (also borne as "Heland") private Company B, Sixty-seventh Pennsylvania Volunteers, was enrolled at Philadelphia, Pa., on September 9, 1861, to serve three years; re-enlisted on January 1, 1864, as a veteran volunteer, and is reported present on roll of company for January and February, 1864; roll for March and April, 1864, shows him absent with leave on veteran furlough; roll for May and June, 1864 (last roll of the company upon which his name is borne), reports him absent, deserted about May 1, 1864. He did not thereafter return to military control, although his command was retained in service until July 14, 1865.

The Hon. Henry H. Bingham, M. C., was informed by the Department, in a letter dated July 14, 1888, in which the soldier's record was quoted, that if, as is inferred from the soldier's letter herewith returned, he was prevented from returning and completing his term of enlistment by reason of physical disability, it will be necessary for him to establish that fact by the testimony of his attending physician or other reliable parties, and also that such disability was contracted in the line of his duty, before he can become entitled to a discharge certificate from his veteran enlistment.

The testimony required has not been furnished, and in its absence the case is not embraced within the provisions of any law governing the subject of desertions.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

GENERAL AFFIDAVIT.

STATE OF PENNSYLVANIA, *County of Philadelphia, ss:*

In the matter of Patrick Hyland, Company B, Sixty-seventh Regiment Pennsylvania Volunteers.

On this 13th day of March, A. D. 1890, personally appeared before me, a magistrate in and for aforesaid county and State, Thomas Fagan, aged 47 years, a resident of the city of Philadelphia, county of Philadelphia, State of Pennsylvania, whose post-office address is 4422 Parrish street, and who, being duly sworn according to law, deposes and says, in relation to the aforesaid case, as follows:

I served in Company B, Sixty-seventh Regiment Pennsylvania Volunteers, and was personally acquainted with Patrick Hyland, of the same company and regiment. I reënlisted at the same time that Patrick Hyland did, and came home with the regiment at the same time, and am personally knowing of the fact that when the regiment's veteran furlough expired and was returning to the front that the said Patrick Hyland was laid up sick from typhoid fever, and was confined to his residence and under the care of physician.

Between the time the regiment went back on its veteran furlough, January, 1864, and October, 1864, I saw a letter that was received by Private James Tag, of the same company, and in said letter it stated that Patrick Hyland was still very sick and not expected to live.

In the battle of October, 1864, I was wounded and came home, and when I came home I saw the said Patrick Hyland and he was only a shadow of his former self; he was just recovering from his sickness, was just able to walk about, and in conversation he informed me that he had been sick ever since the regiment left.

I was home from October to the latter part of January, 1865, and during this time I saw him quite frequently and know he was not at any time fit to perform any military duty, he being still very weak.

I was discharged in July, 1865, and saw him again and he was a physical wreck, and had not done any work, neither was fit to do any work or to perform military duty.

He was always regarded by the officers as being homesick; he was not looked upon as a deserter; had they suspected him of such he could have easily been arrested, as it was known to us all where he was.

I further declare that I have no interest in said case, and am not concerned in its prosecution.

THOMAS FAGAN.

Sworn to and subscribed before me this day by the above-named affiant. I further certify that I am in nowise interested in said case, nor am I concerned in its prosecution.

Witness my hand and official seal this 13th day of March, 1890.

[SEAL.] ISRAEL W. DENHAM,
Magistrate Court, No. 6.

GENERAL AFFIDAVIT.

STATE OF PENNSYLVANIA, *County of Philadelphia, ss:*

In the matter of Patrick Hyland, late Company B, Sixty-seventh Regiment Pennsylvania Volunteers.

On this 12th day of March, A. D. 1890, personally appeared before me, a magistrate in and for aforesaid county and State, Margaret Soden, aged fifty-two years, a resident of the city of Philadelphia, county of Philadelphia, State of Pennsylvania, whose post-office address is 2419 Factory street, and who, being duly sworn according to law, deposes and says in relation to the aforesaid case as follows:

I am knowing of the following facts: My husband, James Tag, was a member of Company B, Sixty-seventh Regiment Pennsylvania Volunteers, and I resided within one square from the residence of Patrick Hyland, the claimant, and know that while he was home on a veteran furlough that he was taken very sick with the typhoid fever and was confined to his residence, and when their time of furlough was expired and they were going back to the Army, then the said Patrick Hyland was sick in bed with the typhoid fever and was under the care of a doctor, William Harper, and to my own personal knowledge he, the said Patrick Hyland, was mentally distressed because he could not return with the regiment, and to relieve his fears I personally went

to the colonel and reported his sickness and the severity of the same, and the colonel requested that he follow the regiment as soon as he was able. I nursed him in his sickness and know he was delirous and out of his mind and hovered between life and death for a month or two, and he left his room earlier than he should have done and the result was he had a relapse and then was sick for about three months, and as soon as he was able to move about again he started for to join his regiment. He was very weak and could scarcely walk, and when he got as far as Washington he had to come back again, and he wanted to go to the hospital at Twenty-fifth and South streets, but his father would not allow it and he was brought home again and was under the charge again of Doctor Hopper. Then when he did get well of the fever he was taken sick with a chronic diarrhea and he had big blotches to break out all over his body and he continued in this condition until long after the war was over. He was not able to do any work for fully two years after the close of the war.

I am confident he was at no time in a condition fit to do or perform military duty from the time he came home on his veteran furlough in 1864 until fully a year after the war was over. I further declare that I have no interest in said case and am not concerned in its prosecution.

MRS. MARGARET SODEN.

Sworn to and subscribed before me this day by the above-named affiant. I further certify that I am in no wise interested in said case, nor am I concerned in its prosecution.

Witness my hand and official seal this 12th day of March, 1890.

ISRAEL W. DURHAM,
[SEAL.] *Magistrate Court No. 6.*

APPLICATION FOR REMOVAL OF CHARGE OF DESERTION.

STATE OF PENNSYLVANIA, *County of Philadelphia, ss:*

On this ——— day of March, A. D. 1890, personally appeared before me, a magistrate in and for the county of Philadelphia, in the State of Pennsylvania, Patrick Hyland, now a resident of Philadelphia, county of Philadelphia, State of Pennsylvania, who, being duly sworn, declares that he is the identical person who served under the name of Patrick Heland in Company B, in the Sixty-seventh Regiment of Pennsylvania Volunteers; that he was enlisted in said company and regiment on or about the 9th day of September, 1861, at Philadelphia, in the county of Philadelphia, and State of Pennsylvania, by Capt. Thos. Conner, mustered into service on or about the 9th day of September, 1861, at Philadelphia, in the county of Philadelphia, and State of Pennsylvania; that he served faithfully until on or about the 1st day of February, 1864, when, without any intention of deserting, he left the regiment under the following circumstances, viz: Whilst he was home on the veteran furlough he was taken sick with typhoid fever and was unable to return with his regiment at the expiration of said furlough, and his anxiety to go back was so great that in enfeebled condition he left his sick room and followed the regiment as far as Washington, D. C., and whilst en route thereto the fever increased and to such an extent that when he reached Washington he was unable to proceed any further, and by the advice of officers and men who were strangers to him and who were awaiting transportation at the depot in Washington, all of whom advised him to return home again and to go to some hospital in his native city, which the claimant done, and as soon as he arrived in the city of Philadelphia, Pa., he immediately went to the South street United States general hospital, which was only about one square from his residence. He was admitted to the said hospital, but was only there a short time, as his father called at said hospital and obtained the consent of the surgeon in charge to take the claimant to his residence for treatment; this request the surgeon very readily complied with, and stated he was glad to do so, as the hospital was so well filled with sick and wounded at that time. The claimant continued very sick with the typhoid fever for about several (three) months, *i. e.*, just as he was recovering from the first attack he was taken with a relapse and was then about five weeks in a delirious condition. Furthermore, whilst suffering from the typhoid fever, the chronic diarrhea came on him, and so severe in character as to prostrate him, and from the effects of the typhoid fever and chronic diarrhea he was never at any time sufficiently recovered to perform military duty, and said debilitated condition continued on him from February, 1864, to May, 1865, and for some time subsequent thereto, and as his absence from his command was not due to nor the fault of the claimant in any manner, therefore he files this declaration, which is made for the purpose of securing a removal of the charge of desertion, and he hereby appoints, with full power of substitution and revocation, James B. O'Neill, 118 S. Sixth street, of Philadelphia, Pa., his attorney to present his appli-

cation, and to receive and receipt for the discharge that may be issued thereon, and to do any and all acts necessary to effect the purpose of his said appointment. His post-office address is 410 S. Twenty-sixth street, Philadelphia, Pa.

PATRICK HYLAND.

Also personally appeared before me Charles Seger, now a resident of the city of Philadelphia, in the county of Philadelphia and State of Pennsylvania, and Daniel Devenny, is now a resident of the city of Philadelphia, in the county of Philadelphia and State of Pennsylvania, to me well known as creditable persons, who, being sworn, declare that they have been for ——— acquainted with the above-named applicant; that they know him to be the person he represents himself to be; that they have every reason to believe that the foregoing affidavit by him subscribed is correct and true, and they have no interest in this claim.

CHARLES SEGAR.
DANIEL DEVENNY.

STATE OF PENNSYLVANIA, *County of Philadelphia, ss:*

Sworn to and subscribed before me this day by the above-named affiant, and I certify that I read said affidavit to said affiant, including the words ——— erased and the words ——— added, and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in said case, nor am I concerned in its prosecution; and that said affiant is personally known to me, and that he is a creditable person.

[SEAL.]

ISRAEL W. DURHAM,
Magistrate Court No. 6.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 524.

JAMES M. NEWMAN.

MARCH 3, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2107.]

The Committee on War Claims, to whom was referred the bill (H. R. 2107) for the relief of James M. Newman, submit the following report:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 560, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2869) for the relief of James M. Newman, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 3138, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 5375) for the relief of J. M. Newman, submit the following report:

This bill is for the payment of $412 for supplies, provisions, labor, and attention furnished wounded officers and soldiers of the United States during the late war by J. M. Newman, of Amite County, Miss.

The proof shows that on the 1st day of May, 1863, while Col. Grierson (afterward Gen. Grierson) was making his celebrated raid from Corinth, Miss., to Baton Rouge, La., and when he was in the extreme southern portion of Mississippi, about 40 miles north of Baton Rouge, at a point known as Walls Bridge, across Tickfaw Creek, in the county of Amite, in the State of Mississippi, the progress of his troops was resisted by a Confederate force, and Col. William D. Blackburn, of the Seventh Illinois Cavalry, while leading the charge on the Confederate forces to clear said bridge, which was the only available means of crossing said creek, was severely and dangerously wounded by a gunshot wound in the hip and thigh, and a slight wound in the head. There were also four or five Union soldiers wounded in the same combat, and one killed. Colonel Blackburn and the wounded soldiers and the body of the dead soldier were taken to the house of the said J. M. Newman.

There were no well soldiers left with these wounded men except Sergt. Leiser, of the Seventh Illinois Cavalry, and Dr. E. D. Yule, assistant surgeon. This place, *Walls Bridge, is in the interior*, and was thinly settled, in a lonely place, not near

any thoroughfare. No Union soldiers had been there during the war and were not likely to be again. It happened to be in the track of that raid. There was therefore no force used and no feeling of fear influenced this claimant to do what he did do. He was asked by Dr. Yule to take these wounded soldiers into his house and care for them, and did so. Sergt. Leiser did all he could do, but it was out of his power to wait upon Col. Blackburn even; for he suffered greatly, and lay for eighteen days, during which time he had to be waited upon constantly, day and night. They had to sit up with him every night until his death, on the 18th of May, 1863.

Dr. Yule did all he could, also all that any man could; but he could not act as physician to five or six wounded men and act as nurse at the same time, particularly when Col. Blackburn was so seriously wounded and needed the attention of the doctor so much. The doctor must necessarily stop to keep himself fit for duty as a surgeon, so that the whole attention of nursing those five or six wounded men, except what Sergt. Leiser and Dr. Yule could do, fell upon claimant and his wife. Claimant was a small farmer, with a small but comfortable house. He and his wife gave their best bedroom and best bed to Col. Blackburn. The bed and all the articles belonging to it were rendered utterly worthless by the use of it for Col. Blackburn, as well as many other articles used to replenish it during the eighteen days that Col. Blackburn lay at his house; and for his use and the other soldiers', for bandages and other purposes, nearly all the bedding, bed covering, and linen owned and possessed by claimant were destroyed for use or used up.

Claimant and his wife spent their whole time during those eighteen days waiting upon and working for the said wounded soldiers.

The wife of claimant did most of the cooking and washing during that time. Provisions were scarce and very high in that country. Dr. Yule and Sergt. Leiser also boarded with claimant. The soldier that was killed was hastily buried by the other Union soldiers before they left; but it could hardly be called a burial, and Mr. Newman, claimant, has buried him properly. One of the wounded soldiers died a few days before Col. Blackburn's death, and claimant buried him properly. The others recovered and were removed from claimant's house when they were able to travel.

Claimant also buried Col. Blackburn properly, with the assistance of his neighbors.

The claimant spent all his time, day and night, sleeping not much during that time, at an important season of the year for a farmer to be with his crop, in which claimant worked and on which alone he depended for a living. The wife spent her whole time in cooking and housework and making bandages, to do which she had to tear up her towels and sheets, which were scarce and high-priced in that country at that time, and when those were exhausted she procured from her neighbors. All the expense of burial of the two soldiers and Col. Blackburn fell upon the claimant. He being a man of small means, he was left without provisions, with his house almost stripped of bedding and other linen, and in debt. Claimant and his wife are now poor and old.

Col. Blackburn, before his death, and when he was still strong, wrote in his own hand and signed a certificate in these words:

NEWMAN FARM, MISS., *May 5, 1863.*

This is to certify that I have been very kindly treated by Mr. J. M. Newman and family, and I desire all Union soldiers to respect his family and property. Said Newman has been a friend indeed.

WM. D. BLACKBURN,
Lieutenant-Colonel Seventh Illinois Cavalry.

The committee report the bill back to the House and recommend that it pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 525.

PENSION APPROPRIATION BILL.

MARCH 4, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MUTCHLER, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany H. R. 6875.]

The Committee on Appropriations, in presenting the bill making appropriations for the payment of invalid and other pensions for the fiscal year 1893, submit the following in explanation thereof:

The estimates on which the bill is based will be found on page 161 of the Book of Estimates for 1893, amounting to $147,064,550.

The accompanying bill appropriates $134,825,066, apportioned as follows:

For the payment of pensions	$133,048,366
For fees and expenses of examining surgeons	1,250,000
For salaries of agents	72,000
For clerk hire at agencies	400,000
For fuel	750
For lights	750
For stationery and other necessary expenses	35,000
For rents	18,200
Total	134,825,066

The following statement gives, by appropriate title of expenditure, the amounts appropriated for 1892, the estimates for 1893, and the amounts recommended in the accompanying bill for 1893:

Title of expenditure.	Appropriations for 1892.	Estimates for 1893.	Recommended for 1893.
Payment of pensions	$133,173,085	$144,956,000	$133,048,366
Fees of examining surgeons	1,500,000	1,500,000	1,250,000
Salaries of agents	72,000	72,000	72,000
Clerk hire at agencies	400,000	475,000	400,000
Fuel	750	750	750
Lights	750	750	750
Stationery and other necessary expenses	35,000	35,000	35,000
Rent	18,200	25,050	18,200
Expense of changing time in making payments	15,000	.....	.....
Total	135,214,785	147,064,550	134,825,066

The following table shows the number of pensioners on the roll, the annual value of pensions, and the disbursements on account of pensions from 1879 to 1891, inclusive:

Fiscal year.	Number of pensioners on the roll.	Annual value of pensions.	Disbursements on account of pensions as reported by the Treasury.
1880	242,755	$25,493,742.15	$35,121,482.39
1880	250,802	25,917,906.60	56,777,174.44
1881	268,830	28,769,967.46	50,059,279.62
1882	285,697	29,341,101.62	61,345,193.95
1883	303,658	32,245,192.43	66,012,573.64
1884	322,756	34,456,600.35	55,429,228.06
1885	345,125	38,090,985.28	56,102,267.49
1886	365,783	44,708,027.44	63,404,864.03
1887	406,007	52,824,641.22	73,496,402.69
1888	452,557	56,707,220.92	80,288,508.77
1889	489,725	64,246,552.36	87,624,779.11
1890	537,944	72,052,143.49	106,936,855.07
1891	676,160	89,247,200.20	124,415,951.40

On page 57 of the Annual Report of the Commissioner of Pensions for 1891 a tabulated statement is made of the pensioners on the roll June 30 last, showing the number resulting from the late war, the war of 1812, and the war with Mexico.

REFERENCES.

Navy pension fund.—Section 4755 of the Revised Statutes provides that Navy pensions shall be paid out of the "Navy pension fund," upon an appropriation by Congress, so far as the same may be sufficient.

The naval pension fund at present amounts to $14,000,000, bearing interest at the rate of 3 per cent per annum, and is created under the provisions of sections 4751 and 4752 of the Revised Statutes.

The payments on account of Navy pensions during the fiscal year 1891 aggregated $2,221,917.16.

Pension agents.—The compensation of pension agents is fixed by the act of June 14, 1878 (Supplement to the Revised Statutes, pp. 347 and 348), by the act of July 4, 1888, and by the act of March 3, 1885 (Statutes at Large, vol. 23, pp. 99 and 362).

Examining surgeons.—The compensation of examining surgeons is fixed at $2 for each examination by section 4 of the act of July 25, 1882 (Statutes at Large, vol. 22, pp. 175 and 176).

Laws authorizing appointment of agents for payment of pensions and fixing their compensation.

[Revised Statutes, section 4780.]

The President is authorized to establish agencies for the payment of pensions wherever, in his judgment, the public interests and the convenience of the pensioners require; but the number of pension agencies in any State or Territory shall in no case be increased hereafter so as to exceed three, and no such agency shall be established in addition to those now existing in any State or Territory in which the whole amount of pensions paid during the fiscal year next preceding shall have not exceeded the sum of $500,000.

[Act March 3, 1885, Statutes at Large, vol. 23, page 362.]

That from and after June thirtieth, eighteen hundred and eighty-five, the salary and emoluments of agents for the payment of pensions shall be four thousand dollars, and no more, per annum; and of the fees provided by law for vouchers prepared and paid, only so much thereof as may be required for expenses incurred in having said vouchers prepared, as well as the necessary clerical work at the agencies, shall be available.

APPENDIX.

COMMITTEE ON APPROPRIATIONS,
Thursday, January 28, 1892.

The subcommittee having under consideration the pension appropriation bill this day met, Hon. William Mutchler in the chair.

STATEMENT OF HON. GREEN B. RAUM, COMMISSIONER OF PENSIONS.

The CHAIRMAN. We see in your report an estimate that you require for the current year $144,000,000. Can you give us any idea as to whether there will be a surplus or a deficiency on last year's appropriation? You say in your report that it will be sufficient; I believe that is all you say about it.

Gen. RAUM. Yes, sir.

The CHAIRMAN. Give us your idea, if you have any, as to whether it is more than sufficient.

Gen. RAUM. Of course with your experience in respect to a business of this kind you know the expenditures of a Department, the amount of work that can be gotten out of the office, that is to provide for the adjudication of claims that are on hand. I have felt that with such a great mass of pension claims already there the men who are entitled to pensions ought to have them as soon as they can be allowed, and if you will glance over this paper—I prepare now a monthly statement of the value of certificates issued—this is made up every day as the certificates are issued, and you will observe that from this statement during the first six months of this fiscal year there are 151,851 certificates. There was a little falling off after the 17th of November for reasons which it is not necessary to explain now. I had expected it to be a few thousand more. I am confident we will issue during this fiscal year 350,000.

Mr. BINGHAM. For this fiscal year?

Gen. RAUM. During the present fiscal year up to July 1.

The CHAIRMAN. You mean the total number issued during the fiscal year would amount to 350,000?

Gen. RAUM. Yes, sir.

Mr. O'NEIL. Against how many for the previous year?

Gen. RAUM. Two hundred and fifty-one thousand last year. Now, if you will look at these figures you will see they can readily be projected forward so as to show what the total for the year would be, and I have done that. I have not the figures here, because I did not suppose you would discuss the subject of expenditures for this fiscal year, but I have done that, and I recently discussed the matter with the Secretary——

The CHAIRMAN. In making your estimate of course you have taken into consideration the decrease of first payments that will accrue during the next year?

Gen. RAUM. Yes, sir.

The CHAIRMAN. That will be very considerable.

Gen. RAUM. The decrease in the first payments will be a very large item. I have before me my annual report for the fiscal year 1890, in which it appears the average first payments on the original claims for the year was $485.71. The incorporation of this new law into the system has resulted in connection with the fact that during this fiscal year 1890 there was a very large number of old claims allowed that there has been a great reduction in the average of the first payments. If you will observe in the third column of this half year's statement the average first payment for that six months was $134.32. That, you see, was an actual reduction as compared with the report of 1890 of about $350 in the first payments, and so you will observe in those three extensions there at the bottom of this paper the average annual value for 1890 was $133.94, for 1891 $131.99, and that the average annual value for the past six months was $122.64. Now, last year when I discussed this matter with the committee in this room I ventured to state that the average annual value when this new

law was well incorporated into the system would fall to $128. I am now satisfied it will be less than that, and I base my estimate for the next fiscal year upon $127. I think that will be the average annual value for the next year.

Mr. BINGHAM. Why, then, up to date do you make this estimate of $122.64 which you exhibit?

Gen. RAUM. This is not an estimate; these are the actual figures.

Mr. BINGHAM. I know that, but my question is, what justifies you in lifting this annual value of 1892 from $122.64 to your estimate of $127.

Gen. RAUM. You will observe that the number of persons on the pension roll last year drew $131.99; that was their average value. You will see it right there (pointing out on paper); so, incorporating the two together, the higher rate and the lower rate, I assume it will be $127.

Mr. BINGHAM. On that you predicate your estimate?

Gen. RAUM. Yes, sir. So you will see if this pension system goes forward and you finally have upon the pension rolls a million people, when you get them there it will cost you $127,000,000 a year. The expensive thing, of course, in getting these men who are entitled to pensions on the roll is this first payment.

The CHAIRMAN. Have you any estimate as to what the maximum appropriation may be at any time?

Gen. RAUM. I have considered that; yes, sir.

The CHAIRMAN. And when will it occur—in what year?

Gen. RAUM. I have, sir, and I think that during the operations of the office of the next fiscal year that you will reach the maximum.

The CHAIRMAN. That is, for the year 1894?

Gen. RAUM. Yes, sir; for the year 1894.

Mr. BINGHAM. You mean for the fiscal year ending June 30, 1894?

Gen. RAUM. Yes, sir; I think that you will reach the maximum upon the rolls during that fiscal year. I am quite clear about that.

The CHAIRMAN. And that will be about how much, in your judgment?

Gen. RAUM. I think the roll will be about 1,050,000 pensioners.

The CHAIRMAN. Requiring about $160,000,000?

Gen. RAUM. I do not think it will quite reach that.

The CHAIRMAN. And from that time on is it your opinion that the appropriation would decrease?

Gen. RAUM. I think after that year you will find that the number that drop off will be almost equal to the number that are placed on the roll.

Mr. BINGHAM. Of course that presupposes the legislation to be *statu quo*?

Gen. RAUM. Of course we base this calculation upon that. The effect of this recent legislation has been, and will continue to be, to displace a very large number of claims under the old law.

The CHAIRMAN. You mean that many of them will elect to receive their pensions under the new law rather than wait the adjudication of their claims under the old law?

Gen. RAUM. Yes, sir.

Mr. BINGHAM. Does not your old rule of making up claims to meet the provisions of the new law continue claims under the old law?

Gen. RAUM. I will illustrate that by a case which came before me yesterday—not only the papers, but the man himself. He was an Ohio soldier who served for three years and was in all the great movements; he was in the engagement at Shiloh, marched with Buell, etc. Now, he was never in a hospital and yet he was one of the most thoroughly used-up men I ever saw. He had varicose veins on his left side from his hip to his heel and he had been operated upon in Chicago in the hospital there and he has also been operated upon there for piles. He is now suffering and has been for a long time from heart disease, but there was no record in the War Department that he had ever been sick during the time he was in the Army and he could not prove by any of his comrades that heart disease was incurred in the Army, but he broke down very soon after the war. He put in his old claim and finally he put in his new claim and was allowed $12. Now, that is the last of him.

Mr. BINGHAM. He has no status under the old law?

Gen. RAUM. For the reason the law has not recognized military service as the cause of this disability; they must show disease is caused by——

Mr. O'NEIL. But the fact that a man accepts a pension under the new law does not prevent him from still claiming one under the old law?

Gen. RAUM. Oh, no.

The CHAIRMAN. I did not know that.

Gen. RAUM. Oh, yes.

Mr. GROUT. But you say that is the end of this man; he takes what he can get?

Gen. RAUM Yes, sir.

The CHAIRMAN. I believe you stated in your report the proportion of old claims accepted?

Gen. RAUM. Yes, sir.

The CHAIRMAN. We have that in the report?

Gen. RAUM. Yes, sir; and you will observe here that there are allowed 39,192 old-law claims and 112,659 new-law claims during the past six months.

Mr. BINGHAM. You do not make clear to my mind this point in view of this statement that for the six months from July 1 to December 31, 1891, the average value of each pension for 1892 is $122.64. Now, for the next six months, as you state, you submit an estimate on the basis of $127. Now, will you make it clear wherein you make an increase for the next six months?

Gen. RAUM. I will show you. Probably this lacks a word or two to make that clear. Here is a statement for the six months for the fiscal year 1892. Now, for the six months of this year 1892, handling 151,000 cases, they average $122.64, and if you will turn to the annual report, page 4, you will find there are 676,160 persons on the roll, and on page 4, fifth line from the top on the right-hand side, you will find that the average value of these was $131.99. Now, these pensioners here, these 600,000 people, are drawing $131.99; but these men, these 151,000 men, are only drawing an average of $122.64.

Mr. O'NEIL. And the average is about $127?

Gen. RAUM. Yes, sir; that is the idea.

Mr. BINGHAM. That makes it clear. You are giving us the average under the old law and under the law of June 27, 1890?

Gen. RAUM. Yes, sir.

Mr. BINGHAM. And you give us what is called "the mean average?"

Gen. RAUM. Yes, sir; I think that it will be $127.

Mr. BINGHAM. That makes it clear to my mind, because this statement is a little misleading if taken alone.

Gen. RAUM. It is just for six months; the heading states that. Now, I can state for the information of the committee that, from the present condition of the work and the appropriation, I see no occasion for a deficiency in any branch of the service for this fiscal year. Take, for example, the appropriation for the special examiners' service, the men who are sent out throughout the country to take testimony.

Mr. BINGHAM. How many are those?

Gen. RAUM. There are about 114 in the field; of course that is within my discretion. The work has been so well advanced that I only asked for $215,000 last year, which was about $130,000 less than was spent the year before. Now, I am watching the expenditures very carefully, and we have not quite spent half that appropriation up to the close of the six months. It lacks just a small amount, and I do not propose to spend any more than has been appropriated. Now, for the work; that is, for the pay of medical examiners, the boards, throughout the country. Last year there was so much work of that kind to be done, and it is very important in the interest of the office and pensioners that their cases should be put in a condition so that they could be handled properly, that I ordered a very great number of examinations, and you will have a deficiency. I have estimated that at $376,000.

Mr. O'NEIL. And that is what the Secretary of the Interior refers to in his report under the head of Medical Division? He says that there will be a deficiency of about $300,000 in the appropriation for medical examination service?

Gen. RAUM. Yes, sir; a little more than that. I was just going on to say, Mr. O'Neil, that I will answer your inquiry by saying that work has been so well advanced by the expenditure of a large amount that I think the appropriation for this fiscal year will be all that will be required. I will see that that is not overrun, and it will not be necessary to overrun it, I do not think.

Mr. O'NEIL. Then you do not want that deficiency of $300,000 made?

Gen. RAUM. That is for last year's work; that is for service of last year.

Mr. O'NEIL. That is, you had a deficiency of about half a million in 1891?

Gen. RAUM. Three hundred and seventy-six thousand dollars.

Mr. O'NEIL. No; in 1891 you got an appropriation to make up that?

Gen. RAUM. That is right.

Mr. O'NEIL. Then you estimated that amount as a deficiency for 1891, and you are now $300,000 short on that?

Gen. RAUM. Yes; $376,000.

Mr. O'NEIL. You say $376,000 and the Secretary of the Interior says $300,000.

Gen. RAUM. Well, that was before the accounts were in.

Mr. O'NEIL. He just roughed it?

Mr. LIVINGSTON. I want to ask if the facilities for examination in the Southern States are the same as they are in any other State?

Gen. RAUM. Yes, sir.

Mr. LIVINGSTON. Can we get an examiner in Atlanta?

Gen. RAUM. Yes, sir.

Mr. LIVINGSTON. We have got a lot of Union soldiers in the Southern States and they complain very much—they have been writing to me, and Gen. Raum knows

about that—and I supposed by the way they wrote to me that they didn't have the facilities that you have in the North.

Gen. RAUM. Wherever a board is needed I appoint a board, and where there are only three or four persons to examine I appoint a single surgeon to do that work.

Mr. O'NEIL. They get $2 a person just the same as if they had a larger number.

Gen. RAUM. Yes, sir.

Mr. GROUT. The object of the Department is to have sufficient single examining surgeons to accommodate all the persons who are scattered around.

Mr. LIVINGSTON. You will find them in cities like Augusta, Savannah, Atlanta, etc., but through the rural districts the people are very poor and it is a good deal of trouble for them to get about to the large cities.

Gen. RAUM. If you have none in your district there and need an examining board at some place, why I will appoint one.

Mr. GROUT. It does not increase the expenditure to the Government at all, and only provides for an examination at a point where it is convenient for a soldier to attend.

Mr. BINGHAM. For the fiscal year ending June 30, 1891, what unexpended balance will you have over your appropriation? I mean for the last fiscal year; I want to get that in the record of this interview.

Gen. RAUM. I think I have the item here, and I will give it to you in a moment. There was an aggregate of $9,000,000 (on page 4, just above the middle)—there was an amount of $9,320,986.06 of the appropriation for pensions last year that has not been expended.

Mr. GROUT. You mean the year ending July, 1891?

Gen. RAUM. Yes, sir. Now, it is proper to explain in that connection that this pension appropriation ceases to be available after the 30th of June, so any unpaid vouchers that remain are paid out of the next year's appropriation. Now, heretofore, rather until that was incorporated into my previous report, the balance of these unpaid vouchers was simply a matter of conjecture, and the report shows that at the commencement of the last fiscal year $4,883,242.64 of vouchers remaining unpaid was paid out of this last year's appropriation, but in turn——

Mr. GROUT. This year's appropriation?

Gen. RAUM. No, 1891; but in turn there was left unpaid on the 30th of June last vouchers amounting to $5,713,852.84, so you can see that one hand washes the other. These appropriations of course are payable out of the appropriation for this year.

Mr. BINGHAM. Your old appropriation ran but one year.

Gen. RAUM. Yes, sir. Now, gentlemen, I might inquire whether you have received a copy of a letter addressed to the Secretary of the Treasury a few days ago in regard to this old appropriation which was made a number of years ago—let me see if I can turn to it here, because it will be well enough for me to bring that into the subject (looking over some papers). Well, it is a fact that some years ago there was an appropriation of $20,000,000 for arrearages made under the old law, and these cases that carry arrearages are now so few—during the last six months I have only acted upon eleven, and last year we only expended $15,000 of that appropriation, and now at the close of the fiscal year $502,000 stands to the credit of that account. That much is standing available and it will take fifty years to expend it, and it may never be expended now, because the cases are not there to draw; and I recommend in my letter to the Secretary that in this general appropriation you direct the Secretary of the Treasury to cover that into the Treasury and simply put in a paragraph as I estimate here—if you will look at the estimate—for this appropriation to be available to pay these arrearages. There is no use in carrying that sum as appropriated on hand available for no other purpose during a great number of years when it might as well be turned back into the Treasury.

Mr. O'NEIL. Have you ever estimated how much of that amount you will ultimately use?

Gen. RAUM. We used $15,000 last year, and a fraction over $15,000 the year before.

Mr. O'NEIL. I understand the policy of the Department now is to act on as many cases under the act of June 30, 1890, as possible, you being of opinion that that would give the speediest relief to the people that apply for pension.

Gen. RAUM. Yes, sir.

Mr. O'NEIL. So that there may be a large number of cases under the old law——

Gen. RAUM. This is not what you call the old law, but it is arrearages that go back of the year 1880; they are old cases.

Mr. BINGHAM. These are cases running back from the date of his application to the date of discharge?

Gen. RAUM. It is what was called the arrearage act. As I told you, during the past six months I have only acted upon eleven such cases.

Mr. GROUT. Probably carrying $8,000 or $10,000?

Gen. RAUM. Not as much as that, but a considerable amount; and for this purpose you have got a half a million dollars standing ready.

Mr. GROUT. That is not at all likely to be used.

Gen. RAUM. Last year we only spent $15,000, and the year before $15,500, and this year it will be $8,000 or $10,000, and I think it would be best to allow these old arrearages to be paid out of a general fund, covering this back into the Treasury. You just say, "and for arrearages of pensions."

Mr. BINGHAM. Can not you send each one of us a copy of that letter?

Mr. GROUT. I think I have received one, but I am not certain in regard to that.

Gen. RAUM. Certainly. It will be sent to the Speaker and by him referred to this committee. Under the ordinary rule these appropriations are turned into the Treasury every two years.

Mr. LIVINGSTON. Do I understand that this is $20,000,000 annually——

Gen. RAUM. No; it was a lump sum of $20,000,000, but all of it has been spent except about a half million dollars.

Mr. BINGHAM. The acts you refer to are the acts of January 25 and March 3, 1879.

Gen. RAUM. Yes, sir.

The CHAIRMAN. Now, your idea is we shall put a clause in this bill and the bill will then read this way, "For Army and Navy pensions, as follows: For invalids, widows, minor children, and dependent relatives, survivors and widows of the war of 1812 and with Mexico, including allowances under the act of Congress approved June 27, 1890 and all arrears of pension granted by the acts of January 25 and March 3, 1879;" that will cover it?

Gen. RAUM. Yes, sir.

Mr. O'NEIL. Why can not you send us the letter with your ideas in it, making the suggestions you wish?

Gen. RAUM. I did send that to the Secretary.

Mr. O'NEIL. Then that will come to us in regular form.

Gen. RAUM. Yes, sir; but I thought as I was before the committee I would speak of it so that you would have a full understanding of that point. You know there is no reason why half a million dollars should stand there for years and years when it is not needed there.

Mr. GROUT. There is no batch of these cases now.

Gen. RAUM. Oh, no.

Mr. O'NEIL. Suppose all the applications you have that would carry arrears would be acted on to-day, I mean acted on favorably, how much money would that carry?

Gen. RAUM. Of course I could not give you the exact figures on that, but I will say that the experience for several years has shown—for instance during the last five or six years it has been from $15,000 to $16,000.

Mr. O'NEIL. Suppose all were acted on favorably can you tell?

Gen. RAUM. I can not tell.

Mr. O'NEIL. Can not you give us a rough estimate?

Gen. RAUM. No; but I know I have acted on only 11 during the past six months.

Mr. BINGHAM. Their average has been about what?

Gen. RAUM. I could not tell, but I will let you know.

Mr. O'NEIL. Let us know that and the number of claims for arrears you have.

Gen. RAUM. I do not know that I could definitely give that, for you know it is simply a claim under the general law of pensions, but it is so far back it carries arrearages; but I know of very few——

Mr. BINGHAM. You mean unrejected?

Gen. RAUM. Very few, and as you see there were only 11 in six months there can not be many.

Now, there is something here sent from the office since I left in response to an inquiry of Mr. Courts. I suppose your subcommittee directed him to send for it. "I have the honor to acknowledge the receipt of your communication of the 14th instant, requesting that the Committee on Appropriations be furnished with a statement showing the number of persons, including special examiners, employed in the Bureau of Pensions, and the salary or compensation paid to each, during each of the months of the calendar year, 1891; also a statement showing the number of pension certificates issued by the Bureau of Pensions during the same period." Now, I have caused to be prepared a statement showing that. You will observe though in my letter here that I state, "in regard to Exhibit A, I deem it but proper to state that by reason of the constant and numerous changes in the grade of the employés of this Bureau caused by promotions, resignations, etc., it is impracticable to advise you accurately as to the amount of compensation received by each without a great deal of labor and a voluminous report." I would have to have that done at the secretary's office by the disbursing clerk, because there is a constant change of grades here and there, and——

Mr. O'NEIL. What is your lowest grade?

Gen. RAUM. The lowest grade of a charwoman.

Mr. O'NEIL. I mean of clerks.

Gen. RAUM. Nine hundred dollars. So I have given you a list of these various clerks, and I have added: "Vacancies are constantly occurring, and you will under-

stand that the exhibit referred to contains the number of employés actually employed during each of the calendar months referred to. Where the number given is not equivalent to the number provided for by law, it is to be understood that the difference is due to vacancies occurring from time to time, which are filled as rapidly as possible after their creation." Now, the question of compensation varies with the grade of persons, and also with the time they lose, because if they lose time beyond their regular leave, why, they are subject to have themselves docked, you know, and sometimes it is $5 or $10 or $20, as the case may be, taken off.

Mr. O'NEIL. The hours of your clerks are longer in winter time than summer, are they not?

Gen. RAUM. Yes; but it is only on Saturdays.

Mr. O'NEIL. I thought in summer the leaving time was 3 o'clock in the afternoon.

Gen. RAUM. No; it is only on Saturdays that there is an extra half hour given.

Mr. O'NEIL. I see in your report here you complain that your employés on duty at the several pension agencies, that is, away from your office here, work more hours a day and receive smaller salaries than the clerks of the various bureaus in Washington receive who are employed at similar work.

Gen. RAUM. That is true.

Mr. BINGHAM. Is not that, as a matter of fact, common to all the Departments? Does not the clerical force in the Departments at Washington receive a larger compensation than the clerical force at the various offices of the Government throughout the country?

Gen. RAUM. Well, the official force of the customs service and internal-revenue service receive very much higher salaries.

Mr. BINGHAM. Clerical force?

Gen. RAUM. Oh, yes; they receive higher salaries than the official force in the pension agencies.

Mr. O'NEIL. But they have to have a great deal of technical knowledge and they are really a higher grade clerical force than yours?

Gen. RAUM. Well, I do not know about that. Take the clerks in the office at Chicago. I have been through that a great many times, and I am familiar with that. I think the officers of the pension agencies are equal to the others. You know the system of making these payments has from time to time been changed. In times past the pension agents got a certain fee for a proportion of vouchers, and out of that they paid their official force. After a while it was thought advisable to relieve them there and let the Government pay these official forces itself. When they came to do that a lump sum was given to the agent, and he distributed that as he thought was advisable in the employment of the force, but as this roll has grown that work has been very largely increased there. At the last session of Congress I recommended to this committee we put into the appropriation bill a paragraph very similar to what is in the law of the clerical force of the internal-revenue collectors, etc. Now, these salaries are subject to be regulated and approved by the Secretary of the Interior, and each agent makes an estimate, and we pass upon that and fix the salaries, and the Secretary approves it; but, as I tell you, they work more hours and get less pay than people here in this city. You take Wilson's agency, diagonally across, southeast from the Pension Office, and they work more hours than we do in the Pension Office or any of the Departments.

Mr. O'NEIL. Supposing you had an eight-hour law applied to your Pension Office force, a clerical gain of 23 per cent, could you issue 23 per cent more certificates to people who need them?

Gen. RAUM. Yes; if you work eight hours, say you commence at 8:30 and go through to 5, giving a half hour, of course, for lunch.

The CHAIRMAN. How many different medical divisions does an application for a pension pass through, including the examination by the medical board before it is adjusted?

Mr. O'NEIL. Before you go on with that allow me to ask a question in this line: If you should work more hours and get out certificates quicker, would not that enable us in the future to make a very radical decrease in the whole machinery of the Pension Office?

Gen. RAUM. Well, I think as soon as you reach the maximum number of pensioners on the roll that the work will begin to decrease.

Mr. GROUT. What is the rate of applications under the old law coming in now?

Gen. RAUM. Say four or five hundred a day.

Mr. O'NEIL. General, have you estimated what amount of decrease may be made in the whole machinery of the Pension Office after it reaches the maximum?

Gen. RAUM. No, sir; I have not.

Mr. O'NEIL. Could you estimate that?

Gen. RAUM. Yes; I could do that if desired.

Mr. O'NEIL. I would like very much to have that if you could get it for us.

Gen. RAUM. Yes, sir; but I would not venture to enter upon that to-day.

Mr. O'NEIL. I do not mean that.

Gen. RAUM. I could do that later on. There was an increase in the force with reference to the execution of this new law.

Mr. O'NEIL. Yes, I know that; I voted for it. What I wanted to do was I wanted to get the pensions out to those people who needed them as quickly as possibly.

Gen. RAUM. That is exactly what I am working for, and what gentlemen from all sections of the country who talk to me say, "Well, let us get through with this thing." Now, I would be very glad if your committee or any committee would come down and look the office over, and I think you will say we are doing as much work there as any Bureau of the Government and I think we are doing more because I have had a great deal of experience in these matters. I think we are doing more work per capita in that office than any Bureau in the city; that is my judgment about it.

Mr. GROUT. I agree with you entirely, not only now but for years past, unless it is the record division in the War Department; but they certainly are working in the Pension Office, as I have observed, and I have observed the workings of the different departments.

Gen. RAUM. I have a system down there so that the office is pretty well balanced all the while.

Mr. GROUT. The question still remains as put by Mr. O'Neil, whether or not the hours of labor could be increased and the work expedited, or whether it would result just contrary to what would be expected?

Gen. RAUM. That is the question you gentlemen are very well versed in; of course you would have to apply it to all the departments alike.

The CHAIRMAN. Does an application for a pension under the law of 1890 pass through the stages that an application did under older laws?

Gen. RAUM. Yes, sir; just the same, exactly. I can give the course of a pension application if you would have it.

The CHAIRMAN. You have that in the report.

Gen. RAUM. Yes, sir.

The CHAIRMAN. Now, I want to know whether, in your opinion, it is necessary that an application for a pension under the law of 1890 should be examined by as many different medical boards as an application under a former law?

Gen. RAUM. I will answer that by stating fully that a pensioner, after his claim has been taken up, is ordered to be examined by the medical board in his immediate neighborhood, which is composed of three medical men. They act under carefully prepared instructions from the Pension Office and they give the history of that man's condition as they find him from the top of his head to the bottom of his feet. That is the way we get a perfect judgment of this man as to his then condition and his disability. Now, the law provides that the Commissioner of Pensions should finally fix these rates under the law, but we have the medical boards throughout the country to give their opinion as to the rate that these men are entitled to under the law according to their disability. Now, we have over 1,000 boards. Of course the object is to give all men the same rate of pension having the same rate of disability. We have got a board of intelligent medical men at the office, who are experienced in handling these matters, and they undertake to determine what these men are entitled to under the law, and the reports of the boards located throughout the country are reviewed by the medical board in the office and they give their opinion as to how much these men ought to be rated for, and upon that the certificate is issued by the Commissioner and signed by the Secretary.

Mr. BINGHAM. How many of these boards are there in your central office?

Gen. RAUM. This is simply a board there.

Mr. BINGHAM. How many are there of them and what are they called?

Gen. RAUM. There are about 75 men. Of course, there are some clerks assigned to that work, but every claim is examined and reviewed by them. Then there are two doctors that pass upon it; one examines it and puts his notes upon it, and it is reviewed by another; so we have the opinion of three men in the country and two men in the office as to the disability that this man suffers under.

The CHAIRMAN. If a person makes an application under the act of 1890, and if certified to the office as having lost a leg or being blind, would the office accept that certificate as conclusive?

Gen. RAUM. Oh, yes, sir.

The CHAIRMAN. And there is no action then to be required of the medical board in the Pension Office?

Gen. RAUM. It passes through them.

Mr. GROUT. They spend no time upon it?

Gen. RAUM. They spend very little time upon that.

Mr. O'NEIL. Why should they spend much time on any case arising under the law of 1890? Why not accept the report of the board stating whether he is disqualified from working or not and is entitled to be rated under that act? It seems to me that could be all done absolutely and definitely, so there would be no way of getting around it

Mr. BINGHAM. In other words, there is no rating under the act of 1890; there is simply a question of the disability.

Mr. O'NEIL. If the board says this man is not able to do manual labor, why is not that sufficient?

Gen. RAUM. I think if you will look at the thing particularly you will see that the men on the medical board must be subject to some sort of review, because we must have uniformity.

Mr. O'NEIL. But the law gives you the uniformity.

Gen. RAUM. Suppose that board says, "Here is a man who has lost a left eye and he is entitled to $12," and another board says, "This man has lost a left eye, but he is only entitled to $6?"

Mr. GROUT. Is it not fixed by the law of 1890, the disability?

Gen. RAUM. It is not fixed; it varies from $6 to $12.

Mr. BINGHAM. In other words, you discriminate——

Gen. RAUM. Yes, sir; it varies from $6 to $12. Now, in preparing the regulations for the enforcement of that law, we adopted this rule, that the rate for a disability fixed under the general law for disability of service should be the rate at which you gave a man under this law. We thought that necessary because you would not give a man whose disability had a service origin $6 and a man whose disability did not have a service origin $12. We wanted it to be uniform. But you, of course, will recognize this fact in regard to all Government business, that it can not be conducted precisely on the method that you adopt in private affairs. If Gen. Bingham has an account presented to him he looks it over and says, "This is all right," and he turns around and pays it or gives a check for it and that settles it; but the United States can not do that. You can not invest any officer with the authority so if an account of $150,000 is brought to his desk for him to pay he can say, "I will approve it and give a check for it." It must go through certain machinery.

Mr. BINGHAM. It must follow the statute.

Gen. RAUM. It must be audited and approved before it is paid. Now, if we should invest the medical boards throughout the United States with authority to fix the rates of these pensions irrevocably, why you would find your expenditures would run away from you.

Mr. LIVINGSTON. Friendship and personal feeling would get into it.

Gen. RAUM. We try to do our best as near as we can, and we try to make this uniform.

The CHAIRMAN. I see in your report you state that the average number of inquiries by members of Congress as to the status of pension claims is 500 a day.

Gen. RAUM. It is very much beyond that during the sessions of Congress.

The CHAIRMAN. What force of clerks are necessary to answer these communications, I mean on a rough guess; I suppose you can not tell it accurately.

Gen. RAUM. I can state quite accurately about that. I pushed the work pretty energetically before the meeting of Congress and in the board of review I had something less than 50,000 cases, about a month and a half's work. I did that for the purpose of having more time to devote to these calls by members of Congress, early in the session particularly, doing all I could to get through the demands of their constituents; so in December and during the month of January I set aside a portion of the week, Thursday, Friday, and Saturday, to answering calls of members of Congress. To-day is Thursday; now to-day the entire official force of the adjudicating division are on that work and will be for three days.

The CHAIRMAN. How much is that force?

Gen. RAUM. It is over one-third of the office.

The CHAIRMAN. One-third of the office is employed three days in the week——

Gen. RAUM. During December and January. I do not know whether I will be able to continue it after that. Now we answer just about 4,000 calls a week.

Mr. BINGHAM. From Congress?

Gen. RAUM. From Congress, and I receive nearly 6,000 a week.

The CHAIRMAN. I want to ask you another question; really, do these calls in any way expedite a pension claim?

Gen. RAUM. I give you the status of a claim in a communication addressed through you to the claimant, and I send to you an envelope addressed to the claimant, so that when you look it over you can make a note on your book, if you keep books, and you can send that directly to the claimant. Now, that tells him there are certain things it is necessary for him to prove to establish his claim. Of course that is very important to him to have that done. "Very well," he says, "I can prove this by John Jones, and I can prove this by Thomas Smith, and this by so and so," and so he goes to work and gets the necessary evidence to prove these facts, and sends them forward to the office.

The CHAIRMAN. Would not he get that information from you as well as through a member of Congress?

Gen. RAUM. Yes, sir.

The CHAIRMAN. In due time?

Gen. RAUM. Yes, sir; he would, but there is a certain precedence in all departments of the Government given to requests of members of Congress, and that gives this man for whom you make this application a certain advantage over his neighbor who does not apply through a member of Congress. That is one of those things that can not be avoided in the nature of things.

Mr. LIVINGSTON. Is not this true, that a great many of our constituents do not know how to reach you by letter or otherwise?

Gen. RAUM. I do not know about that.

Mr. LIVINGSTON. I gave you the case of that negro from Atlanta.

The CHAIRMAN. I suppose it is likewise true these calls are made through solicitations of pension attorneys.

Gen. RAUM. Some of them no doubt are.

The CHAIRMAN. Very largely so?

Gen. RAUM. I have an arrangement in the mailing division where I have a section to take up pressing letters. When I took charge of the office, in looking over the manner in which business was conducted there, I found in the mail division all the letters from pensioners and various letters of inquiry of attorneys, etc., were simply sent to the case; there was no reply attempted. I adopted a plan of acknowledging the receipt of all these, but finally upon looking over a great deal of that mail I found there were certain very pressing letters that were entitled to more consideration than that, so I adopted a plan of having these pressing letters replied to, and they were to be replied without drawing the case, and we got up certain blank forms, etc., to give them information, and a very large number of these letters are now answered in that way. But we hear from pension claims in every direction. My wife is a constant recipient of letters from old soldiers and various other people.

The CHAIRMAN. Let me direct your attention again to the act, and I will ask you to give the date of that act to the stenographer, please.

Gen. RAUM. Yes, sir; it is the proviso to this appropriation of June 30, 1890.

The CHAIRMAN. Requiring that you report the aggregate amount of the money expended——

Gen. RAUM (reading). "That the Commissioner of Pensions, in his report for the fiscal year ending June 30, 1891, shall show the total disbursement from July 1, 1861, to June 30, 1891, to pensioners of the late civil war, and also the number of pensions granted between said dates because of said war, and also the number of pensioners of said war whose names have been stricken from the rolls between and including said dates because of their having fraudulently or improperly obtained pensions, together with the amounts disbursed to them during the time their names were upon the rolls, and also the number of persons to whom arrears will have been paid under the act of January 25 and March 3, 1879, to the 30th day of June, 1891, together with the sum total of the arrears so paid." If you have time to do it, I will go over these totals, and if not I will take this with me and I will write you a letter.

The CHAIRMAN. Well, it would be preferable if you would take that with you and write a letter, because it is now after 12 o'clock.

Mr. BINGHAM. Your estimate of clerk hire I see here is $475,000.

Gen. RAUM. For the agencies.

Mr. BINGHAM. That is simply for the agencies?

Gen. RAUM. Yes, sir.

Mr. O'NEIL. Almost everybody who is entitled to admission into a soldiers' home is entitled to a pension under the act of June 27, 1890, and I see here Senator Proctor, of Vermont, has introduced a bill, "So as to require that all inmates of the soldiers' homes who are retired soldiers of the Army of the United States, and all inmates of soldiers' homes who receive pensions from the Government of the United States, shall surrender to said soldiers' home while they remain therein and voluntarily receive its benefit such portion of their pay or pension not exceeding the average cost of their keeping in the home as shall be determined by the commissioners of said home to be equitable and just: *Provided*, That if either of such retired soldiers or pensioners has a wife, child, or parent dependent upon him for support, he shall be exempt from the requirements of this act to the extent of such portion of such pay or pension as may be necessary for the comfortable maintenance of such dependant relative or relatives." Now, there are between 12,000 and 19,000 soldiers in the homes——

Gen. RAUM. This act applies to the Soldiers' Home here.

Mr. O'NEIL. This only applies to the Soldiers' Home here; but I mean in all the homes of the United States there are between 12,000 and 19,000, and I suppose the average would be about 12,000. Now, if we were to follow out that same rule, it would save the Government about $2,000,000 annually for all the homes, would it not; or is that one of the things you do not care to express an opinion about?

Gen. RAUM. I should think you had better call Gen. Franklin or Gen. Black.

Mr. O'NEIL. We have had them.

Gen. RAUM. I do not think I would be qualified to discuss that. Of course, I have visited these homes, and all that, but I have not studied the question.

COMMITTEE ON APPROPRIATIONS,
March 3, 1892.

STATEMENT OF GEN. GREEN B. RAUM, COMMISSIONER OF PENSIONS—Continued.

Gen. RAUM. I was delayed about this information. I want to explain to you that from time immemorial the weekly reports of the Commissioner have been made up from the record division of the office. All the claims come to them. They have to be recorded and adjudicated and all that sort of thing. The last year took a great push and rush of business. There was a very large number of duplicate claims. I spoke to you (Mr. O'Neil) about that yesterday—men making application twice, and sometimes three times. Well, these claims went into the account of the record division, and it wasn't until I made an actual count of all the claims in the office last year that I was able to correct that. There is a little discrepancy between portions of my annual report, because the record division took their figures in their portion; but the figures of the first part of the record that I took myself are based on the count I took on the 1st of July.

Gen. BINGHAM. Was there any material difference?

Gen. RAUM. There is a difference of 50,000 claims, which were duplicates, which we struck out, and I afterwards made my report to the Secretary so that we could tell; and so it was with the increase claims. Men would send in increase claims with one attorney and another attorney, and they, of course, were counted in the record division as separate claims; but when we made this count in July, that, of course, corrected these errors.

Mr. GROUT. Your count was less than that of the record division by within 60,000.

Gen. RAUM. Yes; much less. I have some letters here for you now, replying to these matters, with some data, etc., which I take pleasure in delivering to you [submitted documents to chairman]. Those will cover this point. And then I have here some papers which will cover the other points. Now, I have carried on to the back of this seven months' reports—I don't know a better way of doing it—I added this additional data. We will add to the roll 269,098 instead of 350,000 original claims.

Mr. GROUT. That's the number of claims added to the roll?

Gen. RAUM. Yes.

Mr. MUTCHLER. You will add those to the roll for 1892?

Gen. RAUM. Yes. In February I added 27,844 original claims.

Mr. O'NEIL. That gives you seven months.

Gen. RAUM. Yes.

Mr. O'NEIL. How do you get your 269,000?

Gen. RAUM. For the first seven months we added 130,054, and for February 27,844.

Mr. O'NEIL. That makes eight months.

Gen. RAUM. Yes; this I propose to keep up the work as rapidly as for February.

Gen. BINGHAM. Since the date of your report, Gen. Raum——

Gen. RAUM. Just wait a minute, general. Now, at this time there are claims pending, regular Army and old war claims, 2,227 original invalid and 1,839 widows, all filed since March 4, 1861, in addition to claims on account of the late war; so that there are pending now original claims of men, 293,093, and original claims of widows, 151,128; making 444,220 originals now pending (March 1, 1892). That was my last report to the Secretary a week ago.

Mr. O'NEIL. Before you go away from that, general, according to that, if you adjudicate 300,000 claims up to the 1st of July, you will have wiped out 100,000 of these.

Gen. RAUM. One hundred and twelve thousand.

Mr. O'NEIL. You will excuse me for differing with you. I don't know any way of getting at the amount of claims adjudicated except by an average of your eight months' work; and that will give you 236,000 instead of 269,000. You figure that you will put up 112,000, while as a matter of fact you have only put up 157,000.

Mr. MUTCHLER. It is fair to suppose that during the months of July, August, and September about one-third of the force is absent on vacation, so that I suppose they would lose one month.

Mr. O'NEIL. And during the other months——

Mr. MUTCHLER. That would equalize, you know.

Gen. RAUM. You must consider that a great part of the time heretofore we have been engaged in the work of getting these claims ready, ordering medical examinations, and getting the reports from the War Department, and calling upon these people for the evidence necessary to complete their cases. Well, that work is done now; there is an enormous amount of that work done now, as you will see from my report; and during the past eight months we have kept it going. Last year, as you will see from the appropriation that was made and the estimate for a deficiency, you spent $1,880,000 for medical examinations.

Gen. BINGHAM. How much?

Gen. RAUM. One million eight hundred and eighty thousand dollars. Now, you will spend $1,500,000 for this year, and that will bring the work right up current.

Mr. O'NEIL. How much of that can we knock off for next year, if you are right up to date?

Gen. RAUM. Now, if you will allow me, I had not thought of that in connection with this; but if you will allow me I will give you an estimate. I think we can reduce that estimate for next year.

Mr. MUTCHLER. The appropriation for medical examiners?

Gen. RAUM. Yes; because I have pushed that forward with a great deal of energy, so as to give every man the advantages he was entitled to under the law; so as to get that up as current as possible.

Mr. MUTCHLER. Will you give us an estimate by to-morrow night?

Gen. RAUM. Yes, sir; I will make it to-day. I will give you that estimate during the day. I believe we can cut that down very properly, because, as I tell you, that work has been pushed with all the energy that was possible during the last year and this.

Mr. MUTCHLER. We shall be obliged to you if you will.

Gen. RAUM. Now, here are the increased figures:

Claims pending February 20, 1892.

	Original invalid.	Widows'.
Old wars	2,227	1,839
Service since Mar. 4, 1861	128,312	84,572
Act June 27, 1890	162,553	64,717
Total	293,092	151,128

Total, 444,220.

Applications for pensions under act June 27, 1890, by persons now drawing pensions	181,794
Applications for increase of pensions granted under act of June 27, 1890	18,671
Applications for increase of pensions granted under old laws	214,216
	858,901
Applications for accrued pensions	8,020
	866,921
Number of applications of persons who are not drawing pensions	440,220
Number of applications for additional and increase of pensions	414,081
Claims for accrued pension	8,020
Number of original claims of soldiers pending	293,092
Number of original claims of widows	151,128

Gen. RAUM. Now, you asked me as to the number of persons on the rolls. I got this this morning: On the pension rolls January, 1892, there were 783,132. The number dropped during the six months up to that date was 26,136. By transfer from old roll to act of June 27 roll, 16,243. Of course they were dropped off from one and put on the other. Of deaths there were 9,793. Thus the transfers and deaths made a total dropped of 26,036. Now, here is the account of this appropriation as I have it on my books. The actual amount expended during the first six months, according to the accounts of pension agents, was $63,065,673.08. Now, the balance that we have on hands on my books that requisitions have not been made for is $28,935,995.75; and the amount in the hands of agents is $15,000,000, or it may vary a little.

Mr. O'NEIL. That is $43,000,000?

Gen. RAUM. Yes.

Mr. O'NEIL. That is including the March draft?

Gen. RAUM. Yes.

Mr. O'NEIL. So, that, really, that is the money that you will have for April, May, and June drafts? The balance of that money is only subject to three drafts?

Gen. RAUM. That's all.

Mr. O'NEIL. So that you have $43,000,000 now?

Gen. RAUM. Yes; $43,000,000 for these next four months.

Mr. O'NEIL. You won't spend it.

Gen. RAUM. Well, you must remember that the men who are added to the pension roll from month to month now are paid, and of course as we increase that amount, it

increases the total. We are pushing that up so close. As I was speaking to you yesterday, if we can push this work and keep it up close, those first payments, you know, the estimate I made for next year was that the first payments would be $135. For seven months they were $135.93.

Mr. O'NEIL. And yet the closer you keep them up the less they will be.

Gen. RAUM. Yes.

Mr. O'NEIL. Now, general, you know I asked you yesterday to tell me how fast these claims were coming in now.

Gen. RAUM. You have that in this document, there.

DEPARTMENT OF THE INTERIOR,
BUREAU OF PENSIONS,
Washington, March 2, 1892.

DEAR SIR: In reply to the telegram of Mr. J. C. Courts, clerk of the Committee on Appropriations, of this date, asking for certain information for the use of your Committee in charge of the pension appropriation bill, I have the honor to inform you that the number of pensioners dropped from the rolls during the last five years was 90,758, and the number of pensioners restored to the rolls during the same period was 10,645, as will be shown by the table hereto annexed.

I have the honor to be, very respectfully,

GREEN B. RAUM,
Commissioner.

Hon. WILLIAM MUTCHLER,
Chairman Subcommittee on Appropriations, House of Representatives.

Memorandum showing the number of pensioners dropped from and restored to the rolls during each of the last five fiscal years.

Fiscal year.	Dropped.	Restored.
1887	17,677	2,707
1888	15,730	2,028
1889	16,507	1,754
1890	20,319	1,901
1891	20,525	2,256
Total	90,758	10,645

Claims filed under act of June 27, 1890, from date of approval of act up to June 30, 1891, deducting duplicates		593,795
Number of claims filed—		
July, 1891	14,331	
August, 1891	20,932	
September, 1891	14,415	
October, 1891	16,116	
November, 1891	11,002	
December, 1891	14,232	
January, 1892	17,799	
February, 1892	17,606	
		126,433
Total		720,228

Mr. O'NEIL. Then, again, aren't you finding this to be the fact now about these claims that are coming in now under the act of June, 1890—that there are any quantity of them that have nothing at all in them; that people have got a notion that that act was very liberal and almost anybody can get a pension, whether they deserve it or not?

Gen. RAUM. Well, a good many of these are claims for increase under the new law; claims——

Mr. MUTCHLER. About what proportion of them are for increase?

Mr. O'NEIL. Well, that wouldn't amount to much—they wouldn't carry much?

Gen. RAUM. No.

Mr. MUTCHLER. About what proportion of them are for increase?

Gen. RAUM. I haven't those figures, but I can get them this afternoon by telegraph. That statement was the account made up as a total, but they have the details at the office of each of these months. I can send them up to you. But it is

pretty clear now that the pension business is so well in hand that you can see pretty well through it. These laws that are now upon the statute book will not affect the expenditure of money like that old law, you know.

Mr. O'NEIL. Under this act of 1890 a fellow who was getting $2 or $4 a month is really entitled to an increase?

Gen. RAUM. Yes; many of them are. And the death rate of men who are very badly off and are drawing heavy pensions is greater——

Gen. BINGHAM. Let me ask you this: In view of all the questions that have been submitted to you about your recommendations as to the amount necessary for the next fiscal year, as submitted in your report, from your information up to date, do you see any reason to change these recommendations?

Gen. RAUM. For the appropriation for next year?

Gen. BINGHAM. Yes, sir.

Gen. RAUM. No, sir; I do not.

Gen. BINGHAM. After all your investigation, even at this latter day, you still adhere to your figures?

Gen. RAUM. Yes. This estimate of the Secretary of $125,000,000, you will understand, on page 8 of his report, is not based upon the estimate that I made. He probably thought when he came to go over the thing that, because we had failed to expend all of the appropriation for the previous year, say by $9,250,000, this might fall short, probably, in that way, too.

Mr. GROUT. That $125,000,000 is the estimate for the present year; that is, the year ending June 30, 1892?

Gen. RAUM. Yes, sir.

Mr. MUTCHLER. The expenditure of money last year up to March 1 was $7,000,000, about, in excess of the expenditure up to the 1st of March this year. Now, the entire amount expended last year was $124,000,000, I think; one hundred and twenty some millions?

Gen. RAUM. Yes; $124,000,000.

Mr. MUTCHLER. I can not understand how it is that last year, when you had expended $7,000,000 more up to this time, the 3d of March, than you had done this year to date, that you still require some $11,000,000 more.

Gen. RAUM. Next year?

Mr. MUTCHLER. No; this year. You see, you say the expenditure this year was sufficient; that is what you said before, that $135,000,000 was sufficient. Now, last year you spent $124,000,000, and yet on the 1st of March you were $7,000,000 under the corresponding expenditure last year.

Gen. RAUM. Well, I will show you. We spent for the first six months of this year $63,000,000 and a fraction.

Mr. MUTCHLER. Yes; a little over ten millions a month, it goes.

Gen. RAUM. Now, we are putting people on the roll very rapidly——

Mr. O'NEIL. Yes; I have done a little figuring on that. Now, you have got one quarter more for a year. Suppose you put on 27,000 names a month on an average, and your average payment is $135. That calls for $10,930,000. Now, for that quarter you will have to pay at the rate of annual cost, which you estimated for the total cost, about $21,000,000, and then you would have to pay one-fourth of this, which would be $2,187,000. It would not average that much, probably. That would only pay $34,500,000 for the expenses of your whole machinery.

Gen. RAUM. That, you know, is another appropriation.

Mr. O'NEIL. That would leave $34,000,000 to be expended out of your $43,000,000; so that you will still have $9,000,000 over.

Mr. MUTCHLER. In your last statement, when you were here before, I think you told us that the high-water mark would be reached in 1894, and that we should then have upon the list 1,050,000 pensioners. You thought the appropriation would not be $160,000,000. Now, you had upon the list on the 30th of June, 1891, 676,160 pensioners, according to your report, at an aggregate annual value of $89,247,200. Now, if you add to that the number to be allowed this year, say 350,000——

Gen. RAUM. Well, of course, those are not all originals.

Mr. MUTCHLER. Wait one moment; 350,000, and deduct those that would probably be dropped between June 30, 1891, and June 30, 1892, which, according to my calculation, would be some 42,000 or 40,000; you would then have upon the list 894,000 pensioners on the 1st of July, 1892. That would leave you but 65,000 to reach the maximum.

Gen. RAUM. How is that, sir?

Mr. MUTCHLER. You add 350,000 to 646,160; then deduct (this is a calculation of my own) 42,000 for persons to be dropped from the rolls in that time——

Mr. O'NEIL. If you will excuse me, judge—you have estimated the adjudicated cases and not the number of people he has put on the roll.

Mr. MUTCHLER. How many would he put on the roll?

Mr. O'NEIL. He says his own estimate is 269,898 new names.

Mr. MUTCHLER. Very well; they will be on the roll. Add those to 676,000——

Gen. RAUM. Let's not get mixed. Those figures, you know, will be all that will have been added under the law. Yes, that's right.

Mr. O'NEIL. That gives you a total of names on the roll of 946,058 on the 1st of July, 1892. Of course, you deduct from that about 30,000 who will be dropped off the roll.

Gen. RAUM. Yes; but you know, as I showed you here a minute ago, that there is a great number of these people who are pensioned and going on the rolls who will just change places; don't you see?

Mr. GROUT. Do you mean of the 269,000 that would be changed?

Gen. RAUM. No; they will not be changed.

Mr. MUTCHLER. Now, what I would like to get at is, what will be the number of pensioners on the roll July 1, 1892?

Mr. O'NEIL. Then you tell us how many will be dropped off the roll. You said 30,000.

Gen. RAUM. Just a minute—I will get that.

Mr. GROUT. It would be more nearly 20,000.

Gen. RAUM. Our estimate has been that it would be about 25,000.

Mr. GROUT. I wouldn't wonder.

Mr. O'NEIL. That leaves within 125,000 men of what you claim would be the maximum on the 1st of July, 1892.

Mr. GROUT. You must remember he is taking the cream now; the rest will come slower.

Mr. O'NEIL. That's exactly the point I want to find out. I figure he will put 100,000 names on in 1893, for he will then have the bulk of the claims under the act of 1890 acted upon; and then the last will come like pulling teeth.

Gen. RAUM. Now, in answer to that, I will say that we will have about 907,000 on the roll, say, July 1, 1892. I don't want to underestimate it. It is better that I should give you a full estimate.

Mr. MUTCHLER. Of course you can't get at it; you can approximate it.

Mr. O'NEIL. That will leave 150,000 to come up to the maximum that you spoke of at the last hearing?

Gen. RAUM. Yes; next year you will find a very large number will drop off; so that you will allow 200,000 original cases.

Mr. O'NEIL. I think that from now out they will begin to die very fast.

Gen. RAUM. Say that we have on the roll 907,976 on the 1st of July next; I think it is perfectly safe to say that of that number 35,000 or 40,000 will be dropped that year. That would leave you 886,000 of those men on the roll at the end of the year. Now, then, if we should add 200,000 fresh, new men (and, of course, some of those would drop off and die during the year, but suppose you should add 200,000 brand new names, exclusive of those who would drop off), then you will have only 1,068,000.

Mr. O'NEIL. How many, then, will you put on during 1893?

Gen. RAUM. That's what we were saying. Say we would put on 200,000 new ones; that would include those who would be dropped. You would then have, at the close of that year, dropping off, say, 68,000—you would then have 1,100,000. These men, according to the estimates I made, and I did that with the Secretary sometime ago—these men would have yearly a pension of $127 each. A million of these men would draw $127,000,000, and eleven hundred thousand of them would draw $139,700,000. Now, when you set this amount off with that, it would be the adjustment of the increase claims and various other things that would go on in the office there, so that the first payments can not be very large after that.

Mr. MUTCHLER. We may reach the maximum, then, next year, according to your figures, instead of reaching it in 1894. We shall reach it in 1893.

Mr. GROUT. Do you mean the fiscal year 1894? I thought you did not. It is so recorded. I thought you must have meant the next fiscal year.

Gen. RAUM. I said during the year 1893.

Gen. COGSWELL (who had come in). Calendar year?

Gen. RAUM. Yes.

Mr. MUTCHLER. We supposed it the other way.

Gen. RAUM. In talking with the Secretary, I said in two years' actual working time—at the time we were discussing it—this whole work ought to be made current. Now, suppose you reach a point where you will get 1,100,000 people on at $127, you will make a figure to that roll of $139,700,000; you will reach a point where the first payments can not be much, and you will have 50,000 dropped off right along. I say that state of the roll must not last more than a year.

Mr. MUTCHLER. Gentlemen, does any one want to ask the general anything else?

Gen. BINGHAM. I simply want to repeat the question I asked him, whether, after all the inquiries, there is anything in your experience and knowledge, general, to lead you to reduce the estimate?

Gen. RAUM. I talked this morning with the chief of my finance division; he agreed with me that it would not be safe to figure on less than the estimate we made.

Mr. O'NEIL. And yet you must admit that no one can figure it out even after you spend the rest of your appropriation for last year.

Gen. RAUM. If you will give me one minute more, sir. You see for the first six months, from the actual accounts that were rendered by the pension agents, we spent $63,065,000. Now, during the next six months from that time we are adding very largely to the roll, and it would fall off, you know. It must increase and increase.

Mr. O'NEIL. But of that $63,000,000 there was $5,000,000 that was really charged to the appropriation for the last year.

Gen. RAUM. Yes; but it will be just as much to go over this year. I simply brought that into account—a thing that had never been done before—to show Congress how that thing was done heretofore. Now if it takes $63,000,000 to pay the first six months, the question is, what will it cost to pay the last six months? That, you see, is $10,500,000. Well, I think we may count, with the enormous work we are doing now, that instead of spending $63,000,000, we will spend at least $6,000,000, or $8,000,000 more than that.

Mr. MUTCHLER. Yes; but, general, up to and including March you have spent only $83,000,000, and when you run that on four months longer you get $124,000,000.

Mr. O'NEIL. Yes; in February, 1891, you spent $17,000,000, and in 1892 you spent only $11,000,000.

Gen. RAUM. Yes. Now, in making requistions, I have made requisitions for the entire appropriation except $28,000,000, lacking only $35,000 or $5 of lacking $35,000. Now that is in the Treasury still. Now we have in the hands of agents, as nearly as we can figure, $15,000,000, so that makes $43,000,000 to pay these next four months.

Mr. O'NEIL. Now I have taken your statements; your March drafts have been made; I have taken your statements and that gives you ten months' drafts, and then, in addition to that, take one-quarter of the entire annual amount that you estimate, which is about $22,000,000, and add to that $27 each, that is, $9 per month for three months for these same 81,000 men, or $2,187,000, and then $10,930,000 for first payments to these 81,000 men, and that gives you $34,500,000, which still leaves you $8,500,000 of a balance. I don't agree with you that you will get through as many claims, and the figures don't show it.

Gen. RAUM. But you see we have accelerated our speed and have got faster.

Mr. O'NEIL. But you are apt to make a break at any time.

Gen. RAUM. I have struggled very hard to get the office in good condition. It is really to the interest of the Government to get rid of the claims.

Mr. O'NEIL. And I can't see where that money is going out. For, take one month of the last three; the claims that you allow say, during the latter end of July and the first of June, these things will naturally go over to the next year, anyway.

Gen. RAUM. Yes, it will go over, just as it did the last year.

Mr. O'NEIL. But still I am talking about your balance.

Gen. RAUM. On the 8th I will be able to furnish you my eight months' statement. It will be interesting and will give you additional data. The fact is, this monthly statement that I have been able to invent and make for you, leaves the Commissioner of Pensions and the Secretary of the Interior very little to do, so that you can make the estimates yourselves.

Mr. O'NEIL. That's very good.

Gen. RAUM. I worked a long time to devise that.

Mr. MUTCHLER. That is a very good thing to have.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 526.

URGENT DEFICIENCY BILL.

MARCH 4, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SAYERS, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany H. R. 6876.]

The Committee on Appropriations submit herewith a bill making appropriations for certain of the most urgent deficiencies in the appropriations for the service of the Government for the fiscal year 1892, and recommend its passage.

The bill makes appropriations as follows:

For public printing	$370,000.00
For Capitol building	9,000.00
For Government Hospital for the Insane	22,000.00
For public building at Eastport, Me	9,971.70
For furniture for Washington city post-office	10,000.00
For police court, District of Columbia	17,442.00
Total	438,413.70

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 527.

ADELINE ALEXANDER.

MARCH 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CURTIS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1276.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1276) granting a pension to Adeline Alexander, submit the following report:

Thomas C. Alexander served as a wagoner in Company I, Thirteenth Vermont Volunteers, from August 25, 1862, to July 21, 1863; he died November 27, 1869. His widow, Adeline Alexander, was granted a pension from the date of his death to the date of her remarriage Nobember 29, 1878, and to a minor child of soldier from that date until November 1, 1882, when he became 16 years of age. These claims were allowed in March, 1890, and the arrears of pension due were paid to the proper parties.

It appears in evidence that the widow, Adeline Alexander, and Hiland Alexander were married November 29, 1878; the widow's claim for pension was filed February 8, 1886.

In an affidavit recently filed Mrs. Alexander states that after the death of the soldier his brother, Hiland Alexander, proposed marriage to her, and she at first refused, but he promised to be kind to her children and give her a comfortable home and support, but that after marriage he did not support her; never bought her a cent's worth of clothing, but spent all his earnings and part of hers for drink; he was cross and cruel to both her and her children until he died; that she supported her family by keeping boarders and by washing, but is now in poor health and unable to do much work, and has no means of support other than her daily labor.

There is on file a petition signed by 36 names stating that Hiland Alexander, the second husband, died February 18, 1881; that he was dissipated and did not aid much, if any, in supporting his wife and her children; that she is now in feeble health and without means of support.

Your committee therefore return the bill with the recommendation that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 528.

ELIZABETH R. WILLSON.

MARCH 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. FLICK, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 6140.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6140) granting a pension to Elizabeth R. Willson, submit the following report:

Elizabeth R. Willson, of Iowa, in January, 1863, was directed by Mrs. Mary A. Livermore, of the United States Sanitary Commission, to proceed to Murfreesboro, Tenn., to assist in caring for the sick and wounded soldiers in hospital there. She became a nurse of Hospital No. 6, at Murfreesboro, Tenn., in January, 1863, and remained doing duty as such nurse until September, 1863, when she was taken sick and discharged from said hospital broken in health, so that she has remained an invalid ever since. She is 63 years old, poor, and a widow.

A number of witnesses testify on oath to the good character of Mrs. Willson, and to her energy and valuable services in caring for the sick and wounded Union soldiers at Murfreesboro.

Dr. B. M. Failor, surgeon Nineteenth Ohio Volunteer Infantry, in charge of Hospital No. 6 at Murfreesboro, under date of April 21, 1863, says to her:

> I shall always remember with pleasure your assiduous care, so appropriately mingled with dignity and propriety, and trust you will receive, in the consciousness of having nobly and bravely done your duty, a greater reward than is in my power or those for whose comfort you have labored to bestow.

In view of the fact that she rendered valuable services, as above stated, and that she is now an invalid and dependent, we recommend that said bill be amended by striking out the words "twenty-five" in seventh line thereof and insert the word "twelve," and then that said bill do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 529.

ELLEN GOFF.

MARCH 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUTLER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1759.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1759) granting a pension to Ellen Goff, submit the following report:

The claimant was formerly the widow of George H. Piper, of Company I of Thirty-third Missouri Infantry, who died December 18, 1864, while in the service. She was pensioned as such widow, until her remarriage with one Mr. Goff, who is now dead, and the widow is now in destitute circumstances and advanced in years.

This case is in harmony with well-established precedent, and your committee recommends that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 530.

CECELIA WHITE.

MARCH 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUTLER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 3821.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3821) granting a pension to Cecelia White, submit the following report:

Cecelia White is 76 years of age, a widow, and is afflicted with rheumatism and other complaints incident to age. She is infirm and wholly dependent upon others for support. On the 15th day of September, A. D. 1863, said Cecelia White volunteered as nurse in the U. S. Army, and served as such until August, 1864, being located at Memphis, Tenn., and assigned to a ward in Washington General Hospital, U. S. Army.

It is a meritorious case, and your committee reports the bill with the recommendation that it be amended by striking out the word "twenty-five" in the fifth line of the bill, and inserting in its stead the word "twelve," so that it shall read $12 per month, and that as so amended, the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 531.

MINNIE HALL.

MARCH 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. VAN HORN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 6633.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6633) to restore to the pension rolls the name of Minnie Hall, submit the following report:

Albert L. Hall enlisted at Morris, N. Y., in July or August, 1862, in Company C, One hundred and fifty-second New York Volunteers, and was honorably discharged February 4, 1865, and died January 24, 1876, leaving five minor children, who were afterward pensioned by the Government until they became 16 years of age, which included Minnie Hall, who became 16 years of age January 2, 1879.

It appears from a certified copy of an order granted by the county judge of Otsego County, N. Y., upon an injunction and trial by jury, entered in said county on the 15th day of December, 1890, now on file in the Pension Department, that the said Minnie Hall is idiotic to the extent that she is incapable of the government of herself or the management of her affairs, and that she is possessed of no real estate and a limited amount of personal property. Said order, among other things, confirms the finding of the jury in said proceedings as to the idiocy of the said Minnie Hall, and appoints Charity M. Payne the committee of the person and estate of the said Minnie Hall.

The rate of $14 is recommended by the committee for the reason that inasmuch as the soldier's death was the result of his military services, the rate which would be paid his child under the general law if she were still under sixteen years of age would be $14, and the object of this bill is to place her upon the rolls on the ground that she is idiotic and on the same basis as if she was a minor.

In view of the mental condition of the soldier's daughter and her indigent circumstances, your committee are inclined to the opinion that she should be restored to the pension rolls, and therefore return the bill with with the recommendation that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 532.

MARY CATHARINE REARDON.

MARCH 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TAYLOR, of Tennessee, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1100.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1100) granting a pension to Mary Catharine Reardon, submit the following report:

It appears from the affidavit of the claimant that she was employed as a nurse in United States hospitals at Evansville, Ind., and Mound City, Ill., from the latter part of 1861 until nearly the close of the war; that she is past 50 years of age, and dependent upon her labor for support.

The affidavit of Sister Mary De Sales shows that the claimant served in United States hospitals during the war of the rebellion; that she testifies to this fact from her acquaintance and association with the claimant in said hospitals during the time.

The committee therefore submit a favorable report and recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 533.

CYNTHIA BRINNEMAN.

MARCH 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MARTIN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4945.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4945) restoring Cynthia Brinneman to the pension roll, submit the following report:

The soldier, John Tate, on account of whose service in the Army the claimant drew a pension during her widowhood, enlisted as corporal in Company A, Forty-seventh Indiana Volunteers, September 25, 1861, and died at Helena, Ark., March 5, 1863, of pneumonia contracted while in the service. The claimant was remarried to William H. Brinneman September 20, 1872, with whom she lived until June 13, 1875, when he died, leaving little or no property.

The evidence filed in the claim shows that she has no property except her weaving apparatus and a very little furniture, not exceeding in value the sum of $20. She subsists wholly by weaving rag carpet on a hand loom.

The claimant deserves and needs the pension as much now as when her name was first placed upon the roll, and the fact that the Government has been relieved from its payment during the past twenty years should commend the claim for favorable consideration now. Your committee therefore submit a favorable report and recommend the passage of the bill, with the following amendments: Strike out in the title of the bill the word "née," and in line 5 the word "née," and insert in both places the word "formerly;" and in line 10, after the word month, add "fr omand after the passage of this act."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 534.

ZEPH TURNER.

MARCH 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 6583.]

The Committee on War Claims, to whom was referred the bill (H. R. 6583) for the relief of Zeph Turner, respectfully report:

It appears from the records and evidence in reference to the subject-matter of this bill that Brig. Gen. R. H. Milroy, commanding Independent Brigade, on August 5, 1862, issued the following order, viz:

SPECIAL ORDERS, No. 63. } HEADQUARTERS INDEPENDENT BRIGADE, *Camp Near Woodville, Va., August 5, 1862.*

1. A board composed of the following officers, viz, Maj. J. S. Kripps, First Virginia Cavalry; Capt. Daniel Sheets, Capt. Patrick McNally, will immediately proceed to examine and report what property, if any, has been taken for the use of the Army from the premises of Z. Turner, and the amount of damages sustained by him by the taking or using such property.

* * * * * * *

By order Brig. Gen. R. H. Milroy.

HENRY C. FLESHER,
Captain and Acting Adjutant-General.

A true copy.
R. H. MILROY,
Brigadier-General.

This order was issued in pursuance of the policy of the Government recognizing individuals who were public enemies by laws of war by reason of their residence as friendly to the Government for the purpose of encouraging a sentiment of loyalty to the Federal Government within the insurrectionary territory.

The hearing of the board commenced August 5, 1862, and seems to have been concluded August 7, 1862; and there was awarded for quartermaster stores and commissary supplies to Mr. Z. Turner, $1,288.

The committee do not regard the payment of this award as a question submitted to their decision upon the original facts on which the award is based. They have been determined and allowed by a military board, called under the apparent sanction of the Government, and whose action seems to have been approved by the general commanding the brigade, and the award has not been paid.

This board was composed of officers in actual service, whose sympathies may not be suspected of leaning overmuch to the claimant. It held its sessions in the vicinage of the claimant, and its facilities for proof were better than any civil tribunal that has been constituted to hear such claims; and your committee think its findings are entitled to credit.

It may be said, in addition, the Government afterward furnished tribunals to hear this class of claims. This claimant, presumably relying on the award made by this board, has not prosecuted his claim elsewhere, and statutes of limitations have run against him; but the committee prefer to stand upon the award made as an adjudication of a court created by authority of the Government to hear and adjudicate claims of individuals against it, and to hold such adjudications, not formally disapproved by the authority convening the court, as final.

Your committee therefore report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 535.

CAPT. JOHN T. BRUEN.

MARCH 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5698.]

The Committee on War Claims, to whom was referred the bill (H. R. 5698) for the relief of Capt. John T. Bruen, submit the following report:

The facts in this case are succinctly stated in a report of your committee to the Fifty-first Congress, which is adopted by this committee, and is as follows:

[House report No. 3625, Fifty-first Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 13215) for the relief of Capt. John T. Bruen, respectfully report as follows:

That the claimant, Capt. John T. Bruen, acted as acting assistant adjutant-general and chief of staff to Gen. Daniel E. Sickles from about June until October, 1861, and was so recognized by the War Department.

That Gen. Sickles's brigade, then a part of Gen. Hooker's division, consisted of five regiments, raised as United States volunteers. It was known as the Excelsior Brigade, and these regiments were mustered into the service of the United States.

That afterwards, October 1, 1861, Gen. Sickles, to raise, as was then generally supposed, a corps, obtained further authority of the War Department to recruit three batteries of artillery as United States volunteers (see p. 36). He then, by order, detailed Capt. Bruen to New York to recruit the same (see p. 37).

That Gen. Hooker opposed this project, advising claimant to abandon it, which he refused. That among other things Gen. Hooker said to him, "Those batteries shall never go into the field if I can prevent it."

That claimant, as ordered, and at his own expense, raised one battery, the Second Excelsior, 31 men, for the First, and nearly completed the Third when the War Department stopped the recruiting (see pp. 39 and 40).

That claimant and the Second Excelsior were mustered into the service of the United States, he as the captain.

That on its arrival at Washington charges were preferred against claimant by Gen. Hooker for being absent without leave, but were dismissed by the court.

That afterward Capt. Bruen and his battery served in the armies of Virginia and the Potomac (see pp. 65–67). That after Antietam, incapacitated by disease, he went home on sick leave; his inability to return is attested by surgeons' certificates, from time to time, and forwarded (see pp. 44 and 45).

That on his return charges were preferred against him for overstaying his original leave and again dismissed (see p. 45), and he again assumed his command at the battle of Fredricksburg.

That, shortly after, a charge of a false muster was agitated against him, causing a violent scene at Army headquarters between him and Gen. Hunt, chief of Hooker's artillery (see pp. 7, 8, 41); that in consequence he demanded a court of inquiry, which unanimously pronounced that charge "frivolous, vexatious, and without foundation in fact" (see p. 47); that the court had no time to finish their record or receive rebutting evidence, on account of an expected advance, as appears by the report of the Judge-Advocate-General dated May 14, 1863; that on this record the Secretary of War issued his order No. 174, dishonorably dismissing claimant from the service.

That claimant appealed to President Lincoln, who referred the matter to Judge-Advocate-General Holt, who reported back in favor of the appellant, May 14, 1863, President Lincoln indorsing on the report, May 16, 1863: "Let the order dismissing Capt. Brown be revoked" (see p. 10). Instead of following this, an order, No. 223, was issued, May 25, 1863, by the War Department (see p. 11) restoring Capt. Bruen, "provided the vacancy has not been already filled" by the governor of New York; but the governor refused to fill such vacancy (see p. 15).

This last order was promulgated to the battery May 31, 1863, by Lieut. Samuel Lewis, whose resignation, with that of the other officers, was demanded the same day at the headquarters of Gen. Hooker, who, it is reported, said that Capt. Bruen should never again command a battery while he commanded the Army of the Potomac (see pp. 12, 12). This was immediately after that battery, under Lieut. Lewis, had so distinguished itself at Chancellorsville that he was congratulated by letter from Capt. Randolph, chief of artillery, Third Corps (see p. 18), who also, as well as Capt. Huntington, chief of artillery, third division, Third Corps, officially reported its gallant and distinguished services (see pp. 58–60).

June 3, 1863, the officers, except one, having resigned, Gen. Hooker, by his order, broke up this battery, distributing the men among five other batteries, none of which were from the State of New York, thus depriving the soldiers of State relief for their families and the noncommissioned officers of hope of promotion for past meritorious services. Afterwards Gen. Hooker applied for authority to do what he had already done, and on the 5th of June, 1863, received permission from the War Department to do what he accomplished on the 3d (see p. 14).

The claimant, hearing of the order restoring him through a private source, at once went to the War Department to find out its truth, and there was given a copy of the order on June 10, with a pass, to report to his command at Falmouth (see p. 48). On arriving there he was handed a copy of the order of June 5, as above stated, to the effect "that as the battery is to be broken up Capt. Bruen could not return to the service under the order (Special 223, Current series) which conditionally restores him," and was also handed the other order of Gen. Hooker, breaking it up two days before the date of this permission (see pp. 14, 16).

Claimant again appealed to President Lincoln, stating his order had been evaded by interpolating a condition therein, and that when the condition was satisfied by the refusal of Governor Seymour to fill the vacancy his battery was broken up (see p. 20).

The President again referred the matter to the Judge-Advocate-General, who again reported in claimant's favor. The President, provoked at the evasions of his positive order, again directed its immediate execution, and asked claimant if he desired to resign. This last order is dated August 3, 1863, and was unqualified also (see p. 21).

Same day claimant tendered his resignation to the Secretary of War (see p. 22). The second order was not obeyed, nor was his resignation accepted, and the claimant, as appears from the report of the Judge-Advocate-General, was still in the service.

Five years after, November 7, 1868, Gen. U. S. Grant, as Secretary of War, sent to the adjutant-general's office in Albany an order, which was then filed, by which it is claimed he was honorably discharged from the service. Of this last order the claimant had no knowledge or intimation until May 20, 1890.

Your committee, after thorough investigation, find through this complexity of facts which all tend to, and do show, that great injustice has been done claimant.

In a recent communication from the War Department, on file with your committee, it is stated that—

No action appears to have been taken upon Capt. Bruen's tender of resignation, dated August 3, 1863.

After said tender of resignation Capt. Bruen was placed on waiting orders by the direction of the Department, and so remained. The first action subsequent to that was the order of the Secretary of War, dated November 7, 1868, and referred to in the above report, stating that—

To complete his record on the rolls, Capt. John T. Bruen, Tenth New York Battery, is, by direction of the Secretary of War, hereby discharged from the military service of the United States, to date June 4, 1863.

This order, evidently made under a misapprehension of the facts and of the then state of the record, created still further confusion. It was undoubtedly effective as a discharge from military service from that date, but it could not operate as a discharge of a date when, as is shown, he

was in actual service and acting under orders from the War Department, and so continued for three months after his supposed discharge, and then was placed on waiting orders, and so remained until he was finally discharged under the said order of November 7, 1868.

Your committee therefore return the bill (H. R. 5698) with the following amendments, to wit:

Strike out of section 1 lines 13, 14, 15, and 16, and insert the following: "Until the 7th day of November, 1868, when he was discharged from the service of the United States;" and that the words "to date June 4, 1863. No payments will be made on this order, this officer having already been paid to the date of his discharge," of the order of the Secretary of War of November 7, 1868, discharging said Capt. John T. Bruen from the said service of the United States, be expunged from the record of the War Department, so that said order will read:

SPECIAL ORDER No. 267.

HEADQUARTERS OF THE ARMY,
Adjutant-General's Office, Washington, November 7, 1868.

[Extract.]

* * * To complete his record on the rolls, Capt. John T. Bruen, Tenth New York Battery, is by direction of the Secretary of War hereby discharged from the military service of the United States.

And your committee recommend that the bill so amended do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 536.

SOPHIA BRUNER HINELINE.

MARCH 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr PEARSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1350.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1350) granting a pension to Sophia Bruner Hineline, submit the following report:

David Bruner enlisted October 24, 1861, in Company B, Seventy-second Ohio Infantry, and died at Andersonville October 27, 1864. He left a widow, Sophia Bruner, who drew a pension until August 11, 1874, when she married John B. Hineline. Pension was subsequently paid to the minor children until November 28, 1876, when the youngest became 16 years of age.

Dr. John B. Rice, of Fremont, Ohio, states in a letter that Mrs. Bruner "married an unprincipled fellow named Hineline, who deceived and abused her so that she was compelled to leave him a few weeks after their marriage. She is a good woman, and is now getting old. Her health has failed and she is in a condition of poverty."

Thomas H. Fisher states in affidavit that he personally knows that Mrs. Hineline is in needy circumstances and not in good health and is dependent on her labor for her support.

John B. Hineline died about three months after Sophia Bruner Hineline left him. She is now a widow and in very needy circumstances.

Your committee recommend the passage of the bill with an amendment striking out the name "Hinelins," in line 5, and inserting in lieu thereof the name "Hineline."

Your committee recommend the amendment of the title to said bill by striking out the word "Hinelins," in said title, and inserting in lieu thereof the word "Hineline."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 537.

GILMAN L. JOHNSON.

MARCH 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following.

REPORT:

[To accompany H. R. 3184.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3184) correcting the muster of Lieut. Gilman L. Johnson, having examined and considered the same, report the bill back to the House with a recommendation that it be amended by adding the word "second" before the word "lieutenant" in the fourth line, and as thus amended that it do pass.

The following report has been made by the War Department in this matter:

Gilman L. Johnson was enrolled and mustered into service August 29, 1863, as a private in the One hundred and forty-second Regiment New York Volunteers, and assigned to Company C. His name, however, has not been found on the rolls of that company.

The muster roll of the noncommissioned staff for September and October, 1863, reports him sergeant-major, present, with remark, "Discharged May 22, 1863, as of the Sixteenth New York Volunteers, by reason of expiration of term of service." Subsequent rolls to February 29, 1864, report him sergeant-major, present. The roll for March and April, 1864, reports him sergeant-major, absent, with remark, "Reënlisted as a veteran volunteer;" for May and June, 1864, sergeant-major, present, with remark, "Has performed the duties of first lieutenant since June 13, 1864, by virtue of a commission from governor of New York, dated April 29, 1864, awaiting discharge for muster;" for July and August, 1864, sergeant-major, with remark, "Promoted to first lieutenant, July 25, 1864, to date from June 14, 1864."

Gilman L. Johnson was commissioned second lieutenant and as first lieutenant One hundred and forty-second New York Volunteers, to rank from June 27, 1863, and April 10, 1864, respectively; was mustered into service in the latter grade to take effect from June 14, 1864, and was mustered out and honorably discharged June 7, 1865. He was not mustered into service on his commission as second lieutenant.

In 1889 the claim of Mr. Johnson for recognition as second lieutenant and as first lieutenant Company B, One hundred and forty-second New York Volunteers, from June 27, 1863, and April 10, 1864, respectively, under the provisions of the act approved June 3, 1884, and the acts amendatory thereof, was denied by this Department for the reason that all the companies of the regiment in which there was a vacancy in the grade of second lieutenant were below the minimum number and therefore not entitled to an officer of that grade; and also that Company B, said regiment, from date of rank of his muster-in as such, was below the minimum number, and having two commissioned officers, captain and second lieutenant, was not entitled to an additional officer.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

Lieut. Johnson was in the regiment commanded by and then upon the staff of Gen. N. M. Curtis, now a member of this House, and we have a written statement from Gen. Curtis in reference to it and his service as follows:

Gilman L. Johnson enlisted in the military service of the United States on the 15th day of May, 1861, from the State of New York for a term of two years, after serving the full term with the Army of the Potomac, from Bull Run to Fredericksburg; was mustered out with his regiment, the Sixteenth New York Volunteer Infantry, May 22, 1863. That on the 4th day of July, 1863, he was commissioned by Horatio Seymour, governor of New York, a second lieutenant in the One hundred and forty-second Regiment New York Volunteer Infantry, which regiment was serving in Department of the South, operating on the Sea Islands, about Charleston Harbor, South Carolina.

That said Johnson joined said regiment on or about the 15th day of August, 1863, on a letter from the commanding officer notifying him that his commission awaited him, to join the regiment at once.

That on his joining said regiment it was discovered that the company in which the vacancy existed was below the minimum in numbers, and that, by reason of a late general order in regard to such companies, he could not be mustered in under his commission.

He enlisted as a private in said regiment and was appointed a sergeant and soon thereafter sergeant-major of said regiment, that being the highest noncommissioned officer in an infantry regiment.

That on the 24th day of February, 1864, while discharging the duties of a commissioned officer on the skirmish line at Johns Island, South Carolina, he received a gunshot wound which necessitated the amputation of his right arm.

That during the most of the time from his enlistment, August 29, 1863, to the time he was wounded, he performed the duties of a commissioned officer on the picket line, with fatigue parties, erecting defenses upon the islands, with exploring details, and in camp.

That upon his recovery from the wound, causing loss of his right arm, he rejoined his regiment in front of Petersburg, Va.

On the 18th day of May, 1864, he was commissioned a first lieutenant in the One hundred and forty-second New York Volunteer Infantry, and on the 26th day of July, 1864 (his commission having been on a sunken steamer for some weeks), he was mustered on said commission and placed on the staff of Col. N. M. Curtis, commanding First Brigade, Second Division, Tenth Army Corps, Army of the James, as assistant aid-de-camp; that he was in active service during the sieges of Petersburg and the capture of Fort Fisher, N. C. After the capture of the latter point, January 15, 1865, he was detailed as depot quartermaster at that point till after the close of the war.

N. M. CURTIS,
Late Col. One Hundred and Forty-second N. Y. Vol. Infantry and U. S. Vols.

It will be seen by these documents that Lieut. Johnson has not only a very honorable record in itself, but that, when it appeared that he could not be mustered under his commission, he immediately enlisted at the suggestion of Gen. Curtis as a private and did duty continuously, which takes the case out of the rule where we have refused relief because there was no muster by reason of company being below the minimum number. Then, in addition to this, he, most of the time, actually did duty as a commissioned officer, and while doing this very duty lost an arm. There seems to be no reason why, under these circumstances, he should not, in all respects, be entitled to stand as a commissioned officer from the date of his enlistment.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 538.

JOHN H. SKINNER.

MARCH 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1221.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1221) to amend the military record of John H. Skinner, late second lieutenant Company G, Eleventh Kentucky Cavalry, find that he was regularly mustered into the United States service as a supernumerary second lieutenant November 24, 1862, and served as such officer until November 2, 1863. He was in the field in active service when the order was issued to muster out all supernumerary second lieutenants and was not served with such order for muster out until after he had served seven months, for which service he has received no pay. The report of War Department is printed herewith.

The committee recommend the passage of the bill.

Case of John H. Skinner, late of Eleventh Kentucky Cavalry Volunteers.

RECORD AND PENSION DIVISION, *February 3, 1891.*

The records show that John H. Skinner was mustered in as supernumerary second lieutenant Company G, Eleventh Kentucky Cavalry Volunteers, to date November 24, 1862, and appears to have served with his command until November 2, 1863, when mustered out on individual muster-out roll to date March 31, 1863, under the provisions of section 37, General Orders, 73, of 1863, War Department, Adjutant-General's Office, abolishing the grade.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 539.

CHARLES W. E. WELTY.

MARCH 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 5237.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5237) to correct the accounts of Charles W. E. Welty, recommend that the bill be amended by adding the following proviso:

Provided, That the amount so credited shall not exceed the sum to which he would have been entitled if he had not been dismissed the service.

And when so amended that the bill do pass.

Case of Charles W. E. Welty, late captain Company M, Fourteenth Regiment Pennsylvania Cavalry.

RECORD AND PENSION DIVISION, *February 18, 1892.*

Charles W. Ed. Welty has been recognized by this Department as captain Company M, Fourteenth Pennsylvania Cavalry, from December 6, 1862, the date of his commission, to fill an original vacancy.

Upon the recommendation of his division and department commanders he was, by direction of the President, dishonorably dismissed the service for absence without leave, by Special Orders No. 309, paragraph 15, War Department, Adjutant-General's Office, dated September 19, 1864.

On October 4, 1864, Capt. Welty addressed the Adjutant-General of the Army from the headquarters of the regiment in language as follows:

"GENERAL: By an order from the War Department (of which inclosed is an extract) I am dismissed the service of the United States under the following circumstances:

"While encamped at Martinsburg, Va., for a few days, about the 15th of August, after a severe campaign, during which I suffered much pain and inconvenience from chronic diarrhea, I applied to the surgeon in charge of my regiment for a certificate on which to base an application for leave of absence, which was granted (as per copy inclosed) for the period of ten days.

"On applying to the medical director of this division for his approval he did so, *but only* for three days. I was absent from my command for that period, and no more, of which I have abundant proof.

"I most respectfully ask for an investigation, that I may have an opportunity of stating my case and producing the necessary evidence, which I trust will result in my being reinstated, as I feel satisfied in my own mind that the charges were preferred from a personal feeling against me.

"I may also state that the charges were not approved by the colonel of my regiment, now commanding First Brigade, Second Cavalry Division. He was then at Harpers Ferry, commanding force there; they were approved by a temporary commander, who is an entire stranger to my character and standing as an officer."

This letter was indorsed as follows:

[First indorsement.]

HEADQUARTERS FOURTEENTH PENNSYLVANIA CAVALRY,
Near Luray, Va., October 4, 1864.

Respectfully forwarded approved.

W. W. MILES,
Captain, Commanding Regiment.

[Second indorsement.]

HEADQUARTERS FIRST BRIGADE, SECOND CAVALRY DIVISION,
Luray Court House, October 5, 1864.

Respectfully forwarded.

There certainly seems to be some justifiability in the temporary absence. If the captain was sick and under the direction of the medical director he certainly was absent under proper authority.

I respectfully approve his application.

J. M. SCHOONMAKER,
Colonel.

[Third indorsement.]

HEADQUARTERS SECOND CAVALRY DIVISION, D. M.,
In the Field, October 9, 1864.

Respectfully forwarded.

The statement of the officer is correct, and his general good character as an officer and soldier entitles him to an investigation of the case or his reinstatement.

W. F. POWELL,
Colonel, Commanding Division.

[Fourth indorsement.]

HEADQUARTERS DEPARTMENT OF WEST VIRGINIA,
Near Strasburg, Va., October 10, 1864.

Respectfully referred to chief of cavalry, Middle Military Division.

GEORGE CROOK,
Brevet Major-General.

[Fifth indorsement.]

HEADQUARTERS CAVALRY, MIDDLE MILITARY DIVISION,
October 11, 1864.

Respectfully forwarded.

As there appears some cause for the absence of this officer it is recommended that he be allowed an investigation in his case.

A. T. A. TORBERT,
Brevet Major-General.

[Sixth indorsement.]

HEADQUARTERS MIDDLE MILITARY DIVISION, *October 13, 1864.*

Respectfully forwarded to the Adjutant-General of the Army, recommended.

P. H. SHERIDAN,
Major-General, Commanding.

[Seventh indorsement.]

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
October 29, 1864.

Respectfully referred to the military commission of which Brig. Gen. Caldwell is president.

By order of the Secretary of War:

THOMAS M. VINCENT,
Assistant Adjutant-General.

In addition to the copy of the order dismissing him from the service, Capt. Welty submitted with the letter referred to above a copy of a certificate of Dr. A. M. Spaulding, hospital steward, Fourteenth Regiment Pennsylvania Cavalry, dated August 16, 1864, testifying that he had examined the captain carefully and found him suffering

from chronic diarrhea, having suffered from its effects three weeks, and in consequence thereof was, in the steward's opinion, unfit for duty; and, further, that the officer would not be able to resume his duties for a less period than ten days.

This paper was indorsed by the medical director of the Second Cavalry Division as follows:

"Capt. Welty is exonerated from duty for three days in consequence of diarrhea."

The military commission, to which the case of this officer was referred, decided that his defense was not satisfactory, and made no recommendation in his favor.

On January 11, 1865, his case was again referred to the same military commission, which, under date of February 25, 1865, made the following report:

"From the evidence now before the commission it appears that the accused, on the 16th of August, 1864, was excused from duty for three days by the medical director of the Second Cavalry Division, and Maj. Foley, commanding Fourteenth Pennsylvania Cavalry at that time, swears that he approved the accused's application to go to the rear (the regiment being on the march) on the surgeon's excuse, and that within the time specified he returned and reported for duty, and that the accused was not absent without leave.

"The accused presents the highest testimonials from his regimental officers, and Gen. Tibbits says that the accused served upon his staff through the summer campaign under Maj. Gen. Hunter, and 'during that time he conducted himself in a most soldierly manner, and at the battle of Piedmont, June 6, 1864, displayed marked gallantry.'

"The military commission, after mature deliberation, in view of the foregoing facts, decide that the defense of the accused is satisfactory, and recommend his restoration to the service."

Pursuant to the recommendation of the military commision, Capt. Welty was restored to his command, with pay from the date he should rejoin his regiment for duty, provided that the vacancy had not been filled; this by Special Orders No. 102, paragraph 6, War Department, Adjutant-General's Office, dated March 1, 1861.

The rolls of his company for March and April and May and June, 1865, report him present. He was transferred to Company F of the same regiment and mustered out of service with it August 24, 1865.

An application from Capt. Welty for an amendment of the order reinstating him, so that his reinstatement should take effect from the date of his dismissal, was denied by letter from this Department dated June 7, 1865, for the reason that the regulations of the Department would not permit the granting of such request.

It is held by the Department that dismissed officers of volunteers restored to their commands were not in the military service or entitled to pay during the interval between the dates of their dismissal and the dates they rejoined their commands for duty.

Respectfully submitted.

F. O. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

TREASURY DEPARTMENT, OFFICE OF THE SECOND AUDITOR,
Washington, D. C., November 6, 1891.

SIR: In reply to your letter of the 4th instant I have the honor to say that all the papers in your case were forwarded to the Second Comptroller, December 17, 1890, with the recommendation that the charge of $675.69 standing against you on the books of this office, as captain Fourteenth Pennsylvania Cavalry, be removed.

The Comptroller has not yet acted upon the matter. I have therefore referred to him your letter of the 4th and have renewed my recommendation for the removal of the charge. This is all I can do.

Respectfully, yours,

J. N. PATTERSON,
Second Auditor

Capt. CHAS. W. E. WELTY,
No. 10 South Lafayette Street, Valparaiso, Ind.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 540.

WILLIAM H. BROWN.

MARCH 4, 1892.—Laid on the table and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 1230.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1230) for the relief of William H. Brown, having considered the same, respectfully report:

The committee has examined the evidence presented with this case, and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill. The report of the War Department on this case is printed herewith as a part of this report.

The committee recommend that the bill do not pass.

Case of William H. Brown, of alleged Second Tennessee Volunteers.

RECORD AND PENSION DIVISION, *February 3, 1891.*

The name William H. Brown has not been found as a commissioned officer or enlisted man on the muster rolls of any company of the Second Tennessee Mounted Infantry Volunteers on file in this Department.

All the enlisted men of Company D, said regiment, are reported as having been enrolled from September 15, 1863, to April 6, 1864, by Charles W. Shipman, who was mustered into service as the original captain thereof, July 1, 1864.

In 1889, the claim of William H. Brown for recognition as captain Company D, Second Tennessee Mounted Infantry Volunteers, under the provisions of the act approved June 3, 1884, and the acts amendatory thereof, was denied by this Department for the reason that he was not commissioned as such, and because the records failed to show that he performed the duties of that grade.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 541.

DESECRATION OF THE UNITED STATES FLAG.

MARCH 5, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. BYNUM, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 335.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 335) entitled "An act to prevent desecration of the United States flag," having had the same under consideration, recommend that the same be amended as follows:

Strike out the words "or persons" in line 3, the words "or private gain" in line 6, and the words "less than" in line 9, and insert in the stead of the latter the word "exceeding," and when so amended that the bill be passed.

The design of the bill and its only effect will be to prohibit any person from printing or painting upon or affixing to the flag of the United States any advertisement for public display.

The display of the flag at all times and in all places will in nowise be prohibited by the enactment of this measure, and your committee is of the opinion that no person should be permitted to desecrate it by defacing it with advertisements for pecuniary purposes.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 542.

CERTIFICATES OF MERIT FOR UNATTACHED ENLISTED MEN, ETC.

MARCH 5, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. OUTHWAITE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 6071.]

The Committee on Military Affairs, to whom was referred House bill 6071, recommends the passage of the same.

Section 1216 covers the cases of enlisted men of the line only, so that an enlisted man belonging to the Engineer Corps, Ordnance Department, Signal Corps, or Hospital Corps might render the most distinguished patriotic services and yet be ineligible to this mark of approbation, a certificate of merit granted by the President. There are other enlisted men and noncommissioned staff officers, unattached to regiments, who also are excluded from the provisions of that section. Experience has shown many cases in which these excluded men and noncommissioned officers have proven worthy of such an honor, and the bill simply provides for their recognition hereafter in the same way as the enlisted men in regiments now are.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 543.

ELECTION OF PRESIDENT, ETC.

MARCH 5, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. CRAIN, from the Select Committee on Election of President and Vice-President and Representatives in Congress, submitted the following

REPORT:

[To accompany H. Res. 98.]

The Select Committee on Election of President and Vice-President and Representatives in Congress, to whom was referred the joint resolution (H. Res. 98) proposing amendments to the Constitution of the United States changing the time for the commencement and limitation of the terms of the President, Vice-President, and members of Congress, and altering the date of the annual meeting of Congress, beg leave to report favorably and recommend the passage of the joint resolution.

The first article of the proposed amendment changes the day of the inauguration of the President from the 4th of March to the 30th of April. The principal reasons for this change are first, to make the date of future Presidential inaugurations identical with that of the first President of the Republic, and second, to have inaugurations take place at a season of the year when the weather will ordinarily be mild and pleasant and not harsh and inclement as it usually is at the beginning of March. Many thousands of cases of bronchitis, pneumonia, and kindred diseases throughout the country have had their origin in the exposure incident to travel to and from the capital, of people desirous of witnessing Presidential inaugurations and in attending them.

Appended to this report will be found an official tabular statement from the health department of the District of Columbia, showing the meteorological conditions on the 4th of March for eleven years, ending 1891, and the number of deaths from acute lung diseases in March of each year in the District; and also the same conditions for the month of May and for the 4th of May.

From this table it appears that the average temperature for March 4 was 32.8°, and for May 4, 63.7°; that the average mortality for March from *acute* lung diseases was 83, while the average *annual* mortality from the same cause was only 42; and that for ten years the wind had been from the north or northwest on the 4th day of March. Substantially similar conditions have existed on the 30th of April to those of the 4th of May.

The deaths of at least one President and of many thousands of people have been due to these conditions, and this alone would seem to be sufficient to justify the proposed change.

The particular Presidential term which may be affected by this amendment is not stated because, if the amendment should be adopted, *the date of its ratification* can not be foretold.

The second article curtails the term of the members of the House of

Representatives in existence at the first general election after its ratification by changing the day of the termination of said term from the 4th of March to the 31st day of December, and substitutes the 31st day of December for the 4th day of March as the day for the beginning and termination of the official term of members of Congress.

The object sought to be accomplished by the ratification of this amendment is to change the time fixed for the commencement and termination of the official term of members of the House of Representatives. The necessity for such change is obvious from a consideration of the evils which flow from our present system of representation.

The House chosen in November does not begin its work for thirteen months after its election, although its members who do not die before the meeting of Congress draw their salaries from the 4th of March next succeeding. For nine months there is no Speaker of the House; before its members have served their full term their successors are chosen; the certain determination of the second session at 12, meridian, on the 4th of March often prevents the passage of important measures, either from lack of time, as in the case of the deficiency bill at the second session of the Forty-ninth Congress, or because the President has not had an opportunity to examine them, as happened with the river and harbor bill at the close of the same session. The efficiency of Representatives during the short session is sometimes impaired because they have failed of reëlection; representatives are chosen upon issues which may have been settled when they come to the Capitol to enter actively upon the performance of their duties; the people in many instances are not represented by the men whom they have chosen to represent them, but defeated candidates hold over. The Republicans carried the Congressional elections in 1888, while the Democrats were victorious in 1890, and yet the Mills Congress, in the one instance, and the McKinley Congress in the other, continued to legislate for the country afterwards. The month of December in the first session is practically wasted by the House on account of the holiday adjournments.

Should the proposed amendment be adopted, the members of the House elected in November would have about sixty days in which to receive their certificates of election, to prepare for contests, to arrange their private affairs in contemplation of a protracted absence from home, and to reach the capital. There would be no holiday adjournments; the House would only be about eight days without a Speaker, instead of nine months, as under the present system; the theory of the founders of the Constitution, that the Representatives should come "fresh from the people," would be carried out, and they would be engaged in the settlement of the issues upon which they were chosen within sixty days after their election.

The House chosen at the Presidential election would assist in the counting of the Presidential vote and elect the President in case the election should devolve upon the House; there would be two long sessions without any fixed time for adjournment, except such as might be agreed upon by both Houses, and there would, consequently, be no failure of important bills for want of time. There would be no election between the sessions, and therefore each member would be as efficient during the second session as he was during the first. Representatives would not be placed in the dilemma of choosing between a temporary abandonment of their post of duty and the alternative of defeat at home; and they would have an opportunity, between the sessions, to visit their constituents and to discuss pending measures with them. The first session would not be a game of chess between the two parties

with the fall elections as the wager, and there would be no necessity for extra sessions.

The question arises whether the adoption of a constitutional amendment is necessary to accomplish these results, or whether they may be secured by legislative enactment. Congress unquestionably has the power by appropriate legislation to alter the date of its annual meeting and to provide for additional sessions; and several attempts have been made to remedy the evils hereinbefore set forth by the introduction of bills for that purpose.

One of these bills provided that—

The meeting of Congress in the year 1889, and in every second year thereafter, shall be on the first Monday in October, and that in the year 1888, and in every second year thereafter, it shall be on the second Monday in November.

Were this bill to become a law the House chosen in November would not meet for eleven months afterwards. There would still be elections between the sessions; the House would be without a Speaker for seven months, and the second sessions of Congress during election years would begin within a few days after the elections for Representatives in the succeeding House.

The only beneficial result which would follow from the passage of this bill would be to lengthen the short session and to commence the long session two months earlier than at present.

Another bill provided that—

In addition to the present regular times of meeting of Congress there shall be a meeting of the Fifty-first Congress, and of each succeeding Congress thereafter, at 12 meridian on the 4th day of March, the day on which the term begins for which the Congress is elected, except that when the 4th of March occurs on Sunday, then the meeting shall take place at the same hour on the next succeeding day.

The only advantage over the present system which the passage of this bill would afford would be found at the extra session at the beginning of the term of each new Congress; and this would be offset by the inadvisability of bringing Representatives from all parts of the country to the capital at an unseasonable time of the year, and by the further fact that little or nothing would be accomplished at such session. Moreover, there would still be elections between the regular annual sessions, with all the attendant evils.

In the opinion of the committee the only practical way by which the desired results can be attained is by the curtailment of the term of office of some future House of Representatives; and in this connection the committee considered the question whether this can be done by legislative enactment, or whether a change in the organic law is necessary.

The committee believe that a constitutional amendment is essential; because it concludes that, under the Constitution, the official term of the members of the House of Representatives is fixed at two years, and that the 4th day of March is the time of its commencement and termination. In support of this view of the question, the committee cite the following opinion of Hon. George S. Boutwell:

WASHINGTON, D. C., *April 22, 1881.*

DEAR SIR: Since our interview and your presentation of the question, I have made an examination for the purpose of finding the authority or reason for the expiration of each Congress on the 4th day of March, there having been no statute or constitutional provision, under the existing Government, requiring such practice.

On the 13th of September, 1787, Mr. Johnson, of Connecticut, from the Committee on Style, reported to the Federal convention that formed the Constitution of the United States two resolutions, the second of which was as follows:

Resolved, That it is the opinion of this convention that as soon as the conventions

There was a diversity of opinion about the duration of the term which should be fixed for members of the Senate, and seven years were originally agreed upon; but the term of six years was finally substituted.

The term of members of the House being again under consideration, Mr. Randolph moved to strike out "three years" and insert "two years." He would have preferred annual to biennial elections but for the extent of the United States and the inconvenience which would result from them to the Representatives of the extreme parts of the empire.

Mr. Ellsworth was opposed to "three years," and moved that "one year" be inserted.

Mr. Madison was persuaded that annual elections would be extremely inconvenient, and apprehensive that biennial would be too much so. He did not mean inconvenient to the electors, but to the Representatives. They would have to travel seven or eight hundred miles from the district parts of the Union. Besides, none of those who wished to be reëlected would remain at the seat of Government, confiding that their absence would not affect them.

The members of Congress had done this, with few instances of disappointment. But as the choice was here to be made by the people themselves, who would be much less complacent to individuals, and much more susceptible of impressions from the presence of a rival candidate, it must be supposed that the members from the most distant States would travel backwards and forwards at least as often as the elections should be repeated. Much was to be said also on the time requisite for new members, who would always form a large proportion, to acquire that knowledge of the affairs of the States in general without which their trust could not be usefully discharged.

Mr. Sherman preferred annual elections, but would be content with biennial. Col. Hamilton urged the necessity of three years. There ought to be neither too much nor too little dependence on the popular sentiments. The British House of Commons were elected septennially, yet the democratic spirit of the constitution had not ceased. Frequency of elections tended to make the people listless to them, and to facilitate the success of little cabals. This evil was complained of in all the States. In Virginia it had been lately found necessary to force the attendance and voting of the people by severe regulations.

On the question for striking out "three years" seven States voted yea, three States voted no, and one State was divided. "Two years" was then inserted by a unanimous vote of the House. No further action was taken by the convention upon this question, but it was submitted with the remainder of the Constitution to a committee on style, which reported it in the language in which it now appears in the Constitution.

After a full consideration of the question the committee are of opinion that the language of Article I, section 2, of the Constitution, "The House of Representatives shall be composed of members chosen every second year by the people of the several States," means that the duration of the term of said House shall be two years; that the Continental Congress was fully empowered by the resolution of the convention, set out in the letter of Mr. Boutwell, to determine when said term of two years of the first House should begin; and that said Congress did establish the 4th day of March as the time for the commencement of said term.

The committee are also of the opinion that the commencement and termination of each succeeding House of Representatives was thereby established, and can only be altered by an amendment to the Constitu-

tion, each Representative being entitled to his full term of service and the people to their constitutional representation.

There is no designation of the Congress which will be affected by the amendment, as it can not be determined when it will be ratified by the requisite number of States.

The portion of the amendment which establishes the time for the annual meeting of Congress is incorporated in order to enable the Congress selected after its ratification to meet at the time appointed without any legislation upon the subject.

The committee believe that the amendment should be adopted, and so recommend.

Meteorological conditions on March 4 for eleven years ending 1891, and the number of deaths from acute lung diseases in March of each year.

[Compiled from official sources.—J. A. McGinn, Deputy Health Officer.]

Year.	Deaths in March from acute lung diseases.	Atmospheric temperature Mar. 4 each year.	Direction from which wind blew Mar. 4.	Barometer Mar. 4 each year.
1881	81	31	NW.	30.21
1882	73	38	NW.	30.14
1883	82	31	NW.	30.21
1884	68	20	NW.	30.36
1885	92	39	N. & NE.	30
1886	77	30	N.	30.13
1887	49	28	N.	30.47
1888	92	49	SE.	30.27
1889	89	40	N. & NE.	29.52
1890	91	28	NW.	30.26
1891	122	27	NW.	30
Total	916	361	.....	.....
Average	80.3	32.8	.....	.....

The average temperature for March 4 as above is 32.8° (May, 63.7°.)
The average mortality for March from acute lung diseases, 83. (May, 38.)
The average annual mortality from same cause, 42.
Wind from north or northwest on March 4 for ten years.

Same conditions as the above for the month of May and May 4.

Year.	Deaths in May from acute lung diseases each year.	Atmospheric temperature May 4 each year.	Direction of wind May 4 each year.	Barometer May 4 each year.
1880	36	60	S.	30.18
1881	37	56	S.	30.04
1882	45	65	SW.	29.9
1883	34	70	S.	30
1884	30	61	S.	30.1
1885	46	63	S.	29.9
1886	31	66	S.	29.9
1887	30	76	S.	29.9
1888	37	63	SW.	29.9
1889	22	54	NW.	29.9
1890	66	66	S.	29.7
Total	414	701	.....	.....
Average	37.6	63.7	S.	.....

Average temperature May 4 for eleven years, 63.7°.
Average mortality from acute lung diseases in May, same time, 38.
Average deaths from same cause for year, same time, 42.
Wind from south or southwest on May 4 in ten years.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 544.

SUBPORT OF ENTRY AT LAREDO, TEX.

MARCH 5, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. WISE, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 2750.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 2750) to establish Laredo, Tex., a subport of entry in the collection district of Corpus Christi, Tex., have considered the same and report:

Laredo is situate on the Rio Grande, opposite to Nuevo Laredo, one of the most important customs ports in Mexico, and is distant from Corpus Christi, the headquarters of the district, about 160 miles.

The collector of the district feels compelled to spend the major portion of the year at Laredo, because the largest amount of the customs business of the district is transacted there, as will appear from the following tabular statement furnished by Hon. O. L. Spaulding, Acting Secretary of the Treasury:

Comparative statement of the business transactions at the ports of Corpus Christi and Laredo, in the collection district of Corpus Christi, during the period of twelve months from November, 1890, to October, 1891, both inclusive.

Ports.	Entries.	Receipts.	Expenditures.	Number employed.
Corpus Christi	3	$109.35	$8,076.55	6
Laredo	775	18,357.57	14,249.22	14

From the foregoing statement the necessity for constituting Laredo a subport of entry is apparent. Its establishment as such will involve no additional expense, as there are fourteen Government employés in the customs service at Laredo. The passage of the bill is recommended by the Secretary of the Treasury.

Under this state of facts the committee feel warranted in respectfully recommending that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 545.

SUBPORT OF ENTRY AT VELASCO, TEX.

MARCH 5, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. WISE, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 2751.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 2751) to make Velasco, Tex., a subport of entry in the collection district of Galveston, Tex., have considered the same and report:

Velasco is situate on the Brazos River, in Texas, a few miles from its mouth, and is the terminus of a railroad connecting it with the railroad systems of Texas.

Vessels drawing upwards of 16 feet of water readily sail and steam up to its docks to unload their cargoes. Its commerce is daily increasing in volume and an urgent necessity exists for its establishment as a subport of entry.

A customs officer is now stationed there, and its establishment as a subport of entry will not, therefore, involve any additional expense to the Government. The masters of vessels visiting Velasco, are compelled to go to Galveston, about 40 miles distant, to comply with the custom-house laws and regulations.

The Secretary of the Treasury, in a letter addressed to the chairman of this committee, in referring to this bill uses the following language:

* * * "And it appearing that a customs officer is now stationed at said place (Velasco), and that its establishment as a port would not, therefore, involve increased expense, I see no objection to the establishment of said place as a subport of entry in the Galveston customs collection district.

The premises considered, the committee respectfully recommend that the bill be passed.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 546.

ELIZA SMITH.

MARCH 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KRIBBS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 3901.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3901) granting a widow's pension to Eliza Smith, submit the following report:

The claimant, Eliza Smith, was the widow of Frederick Sheckler, who enlisted August 18, 1862, and was mustered into the service September 3, 1862, as sergeant Company K, One hundred and fifty-fifth Regiment Pennsylvania Volunteers, and who was killed at the battle of North Anna River, at Jericho Ford, May 23, 1864.

The claimant was his wife at the time of his enlistment and she received a pension as his widow until March 4, 1874, when she was married to Joseph Smith March 19, 1874, and the said Joseph Smith died February 7, 1877. The claimant received no property from either husband, but is in receipt of a dower from the estate of the latter husband of $36 per year. She is very poor and has no property or other income. Her age is now 59 years and she is dependent on her manual labor for her support. Her brother, who might otherwise help her, lost his leg in the service.

Your committee return this bill with a favorable report and recommend that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 547.

CHARLOTTE SNAVELY.

MARCH 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KRIBBS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 714.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 714) granting a widow's pension to Charlotte Snavely, submit the following report:

John Snavely, the soldier, enlisted July 25, 1862, in Company F, One hundred and thirtieth Regiment Pennsylvania Volunteers; was honorably discharged on account of a gunshot wound through lung November 14, 1862; was pensioned at the rate of $4 per month, which was increased at various times, as his disability increased, until it was raised to $30 per month March 22, 1888. He drew said pension until December 4, 1888, dying February 28, 1889, from the effects of said wound through the lungs, received at the battle of Antietam.

From evidence on file in the Pension Office and before your committee, it appears that the soldier was first married to one Sarah Windowmaker, and that in 1871 the said Sarah was convicted and sentenced to imprisonment for the crime of adultery in the county of Cumberland, Pa.; that the parties never lived together after that, and it appears from the affidavits filed that a divorce had been granted to the soldier, but no record of such a decree can be found to sustain this fact. The impression that a divorce had been granted evidently arose from the incidental remark made by the court in passing sentence upon the wife.

Both parties treated the matter as though a divorce had been regularly decreed. In 1875 the wife remarried. In 1878 the soldier married the claimant in this bill. The parties all resided in the same community, and no question ever arose as to the legality and validity of these marriages. As a result of the soldier's marriage to this claimant there were three children born, viz: Annie C. Snavely, born November 15, 1878; Mary E. Snavely, born October 31, 1882; and Dora C. Snavely, born October 1, 1884. From the evidence filed there can be no doubt but that the parties married in good faith, and lived together as man and wife, enjoying the fullest measure of respect and esteem of their neighbors.

Shortly after the death of the soldier the claimant and minor children applied for a pension. This application was rejected September, 1891, "on the ground that the claimant was not the legal widow, that the soldier had been previously married and not divorced, and that the *former wife was still living* at the time of his death."

Taking everything into consideration, the good faith in which the

claimant entered into the marriage relation with the soldier, the motherhood and care of his three minor children, her ministrations to the wants of the soldier in his last years, make this case a deserving one.

Your committee therefore return this bill with the recommendation that it do pass, after being amended as follows:

Strike out all the bill after the title and insert in lieu thereof the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the limitations and provisions of the pension laws, the name of Charlotte Snavely, as legal widow of John Snavely, deceased, late of Company F, One hundred and thirtieth Regiment Pennsylvania Volunteer Infantry.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 548.

JONATHAN KIMBALL.

MARCH 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JOLLEY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 6038.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6038) granting a pension to Jonathan Kimball, submit the following report:

Jonathan Kimball enlisted April 19, 1861, and served as an enlisted man until July 25, 1861, in Seventh Regiment Illinois Infantry, and on July 25, 1861, was appointed first lieutenant Company A, same regiment. For disability he resigned and his resignation was accepted February 5, 1862. The notice of the acceptance of his resignation was not received by Jonathan Kimball until after the battles of Fort Henry and Fort Donelson, in which he took part.

In January, 1863, Jonathan Kimball entered the military service as adjutant of the Fifty-eighth Regiment Illinois Infantry, and served in that regiment until April 11, 1866, and was mustered out as lieutenant-colonel of that regiment. Jonathan Kimball received a pension from February 6, 1862, at $8.50 per month, for malarial poisoning until January 22, 1863, when pension was terminated on the ground that he had reëntered the service and disability had ceased. The original declaration for this pension was filed January 5, 1881, duly sworn to, but the Pension Bureau accepted an unsworn statement, filed May 27, 1880, and alleging both malarial fever and rheumatism, as sufficient to allow arrears for malarial fever in the certificate dated July 31, 1883.

In allowing pension for rheumatism, by certificate dated January 5, 1884, pension was made to commence May 19, 1881, the date of filing a properly executed declaration alleging rheumatism, although the unsworn letter filed May 27, 1880, alleged rheumatism.

Had the unsworn statement filed May 27, 1880, been sworn to, Jonathan Kimball would have received arrears from the time of his discharge from the service until the allowance of his pension, May 19, 1881. The amount of his allowance of pension, May 19, 1881, was $8.50, which was increased to $17 from June 27, 1888, and he receives that amount now.

The unsworn statement filed May 27, 1880, if it had been sworn to would have carried arrears and would have allowed Jonathan Kimball full arrears from the time of his discharge until May 19, 1881. The time for filing claims for arrears expired July 1, 1880.

The question for this committee to decide is, shall Jonathan Kimball,

because of the oversight in not swearing to his application for pension for rheumatism, filed May 27, 1880, be deprived of arrears to which he would have been clearly entitled had he sworn to such application?

Your committee decide that Jonathan Kimball should be allowed arrears from the time of his discharge until May 19, 1881.

Your committee recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 549.

APPROPRIATIONS FOR THE ARMY.

MARCH 5, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. OUTHWAITE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 6923.]

The Committee on Military Affairs, to which was referred so much of the letter of estimates as relates to the Military Establishment, including appropriations for its support for the fiscal year ending June 30, 1893, submits a bill for that purpose and recommends the passage of the same.

This bill proposes to appropriate $24,245,649.82.

The appropriations for the same purpose for the preceding fiscal years were as follows:

Law of 1888–'89	$24,471,300.00
Law of 1889–'90	23,824,615.73
Law of 1890–'91	24,231,626.79
Law of 1891–'92	24,613,529.19

The estimates for 1892–'93 are $25,949,207.59.

This bill carries $367,879.37 less than the appropriation for the year ending June 30, and $1,703,557.77 less than the estimates for the coming fiscal year.

For the pay of the Army this bill appropriates $13,291,549.82, while the law for the present year provides for $13,227,679.19 for the same purpose. This increase arises substantially from the natural increase under the law of pay to officers on the active and retired list for length of service, and by the increase in number of officers upon the retired list, or who will be placed thereon during the current year; and also by an increase of the number of enlisted men on the retired list. There is also an increase in the pay for the Hospital Corps. The increase for pay of officers for length of service is $12,480; for retired officers is $150,099.57; for retired enlisted men is $152,738.92, and for the Hospital Corps is $40,000. There was a deficiency in the appropriation for 1891 in the last-named item of about $40,000 in the amount appropriated, and the increase is made in this bill to prevent the recurrence of a like deficiency.

The chief reductions in this part of the bill for the pay of the Army, as compared with the law of 1892, are for pay of officers of the line, $57,000; for pay of enlisted men, $50,000; for length of service pay of enlisted men, $36,100; contract surgeons and hospital matrons, $36,317.77, and mileage to officers when traveling on duty without troops, $20,000.

These reductions are made by the committee not with the purpose of effecting any reduction of the pay proper for such items, but in the belief that the Army will not be in the slightest embarrassed by them

and that the Pay Department will be able to meet all demands. The items for mileage of officers, when traveling without troops, is somewhat within the control of the War Department, and may readily be reduced without detriment to the service. The pay of the general staff varies little from last year's law, being increased slightly in some departments and reduced in others, on account of the increase or decrease of the aggregate service of such department.

Two changes in the present law are submitted in this branch of the bill. The first is to reduce the expenses for certain officials of the Army only. The second, and more important, has in view to provide for the more frequent payment of enlisted men and to reduce the cost of the Pay Department. The report of the Secretary of War contains the following upon the subject:

The law now provides that no appointments of paymasters shall be made until the number of majors shall have been reduced below twenty-nine. Without casualties or retirements for disability, the corps will be reduced below the number authorized, and there will be a vacancy in the place of an officer retired for age in September next. Already applications are being received for appointment in this corps in anticipation of early vacancies.

In view of the great number of posts that have been abandoned in the last three years, and the probability that others will be in the immediate future, and that these posts, are, as a rule, the remote ones, requiring the most travel and time to reach, the corps might be still further reduced without injury to the service. Besides this, most of the posts and arsenals are located in or near towns and the force at some of them is so small that payments can be made by checks sent by mail or by money sent by express, at a decided saving of time and expense.

To send a paymaster and clerk 100 or 200 miles to pay 50, and in several cases less than 25 men, requiring from 1,500 to over 2,000 miles' travel annually, for each post, seems an antiquated and unbusiness-like method, and I have recently directed that payments at several points be made in the manner above indicated. The corps can be safely reduced to 25 majors or even less if the Secretary of War be authorized to assign officers of other arms of the service, at remote posts occupied by small garrisons, as acting assistant paymasters in addition to their other duties.

There is a reduction in the sum appropriated for the subsistence of the Army of $45,000 in which the Commissary-General concurs.

In the Quartermaster's Department the first reduction is in the appropriation for regular supplies, the amount of which is $53,000 below the estimates and $78,000 below the law of 1892. The second reduction is an incidental expense of $50,000, and the third is for the purchase of horses of $15,000. All of these can be made without injury to the service and leave sufficient amounts to the credit of each of these funds: To the first, $2,600,000; to the second, $625,000, and to the third, $135,000.

For army transportation the bill provides $2,660,000, and that item is supplemented in the bill with the following new legislation:

That hereafter no money appropriated for army transportation shall be used in payment of the transportation of troops and supplies of the Army over any of the nonbonded lines owned, controlled, or operated by the Union Pacific Railway Company (including the lines of the Oregon Short Line and Utah Northern Railway Company), or by the Southern Pacific Company over lines embraced in its Pacific system.

The object of this provision is to retain, for the present in an unsettled account, the money earned by these companies which own bond-aided lines and owe large sums to the Government, which will become due within a few years, and which it seems such companies are making no provisions to pay and will not be able to pay when due.

The reductions of the amounts for construction and repairs of hospitals from $75,000 to $50,000, and for construction of quarters of hospital stewards from $12,000 to $7,000 were suggested by the Surgeon-General with the proposition that these sums were to be used for these

purposes "at military posts already established and occupied." The construction and repairs of hospitals at established posts in the U. S. Army has during many years been provided for by general appropriation, as follows:

Construction and repairs of hospitals: For construction and repairs of hospitals, including the extra-duty pay of enlisted men employed on the same, etc.

For construction of quarters for hospital stewards, including the extra-duty pay of enlisted men employed on same, etc.

The estimate upon which this appropriation is based is made by the Surgeon-General in accordance with the following regulation, he obtaining this information from the medical officers:

1608. The Surgeon-General will furnish to the Quartermaster-General, in sufficient time for the latter to consider in his annual estimates, a statement showing the hospital repairs which will probably be required during the ensuing year, with the probable cost of the same. (Army Regulations, ed. 1889.)

The expending of this appropriation has, until within the past few years, been confined to the purposes for which its estimate was made, viz., that of the necessities existing at completed or established posts which were garrisoned with troops. During late years Congress has, from time to time, made special appropriations of money for the construction of the "necessary buildings," etc., at new posts, as will be seen by considering extracts from the several acts of Congress concerning the establishment of new posts.

In the construction of hospitals and hospital stewards' quarters for these new posts the Quartermaster-General decided that they should be paid for from the general appropriation, against which decision the Surgeon-General took issue on the ground that he could not legally take an allotment from the general appropriation, because the construction of hospitals, which were "necessary buildings" at these posts, was authorized by a specific appropriation. (See Sec. 3678, R. S.). The case was referred to the Second Comptroller of the Treasury, who, in a decision given June 11, 1889 (copy attached), sustained the view of the Surgeon-General. The original views of the Quartermaster have, however, prevailed, and the general appropriation has borne the following expenses of constructing hospitals and hospital stewards' quarters at the new posts of Forts Logan, Thomas, and Sheridan:

Posts.	Hospitals.	Hospital stewards' quarters.
Fort Logan, Colo	$20,969.30	$1,254.00
Fort Thomas, Ky	18,395.35	1,199.56
Fort Sheridan, Ill	24,169.22	1,200.00

Unless the intention of Congress is clearly defined in the matter the appropriation will have to bear also the expense for constructing similar buildings at the following military posts:

Posts.	Hospitals.	Hospital-stewards' quarters.
Fort Brady	$15,000	$800
Fort Yellowstone	5,000	800
Fort Bliss	25,000	1,200
Fort Omaha	25,000	1,200
Plattsburg Barracks	25,000	1,200

The committee have therefore introduced the words in the bill so as to clearly define the intention of Congress to include hospitals among the necessary buildings to be erected out of the specific appropriations made in the case of each new fort as the work progresses and out of that specific fund.

An increase of $25,000 is made for clothing, camp and garrison equipage for this reason, that under the recent appropriations delays have occurred in supplying the necessary clothing. There is a necessity for purchasing a greater working stock of materials and clothing to enable the department to more promptly meet the wants of the Army and the militia of the States and Territories.

A change in the law restricting the manner of purchasing medicines and medical supplies is adopted in the bill in accordance with a letter from the Secretary of War, transmitting one from the Surgeon-General recommending such an amendment, which letters are appended to this report.

The appropriation for the Engineer Department is increased something above the average of the past four years; but this is necessary because of the destruction by fire of the greater part of the supply of pontoon bridge materials at Willetts Point.

ORDNANCE DEPARTMENT.

The Ordnance Department is provided for substantially as for the current year, except that but $130,000 is given in this bill for the manufacture of metallic ammunition for small arms and ammunition for reloading cartridges and tools for the same, etc., as against $150,000 for the same purposes in this current year. The committee is advised that there is a considerable supply of those materials on hand already, and believe it might be well not to go on manufacturing to be put in store while the progress of invention in this direction is such that the small arms may soon become wholly or partially obsolete.

For the recruiting service an appropriation of $130,000 is recommended, the same amount as is in the act for the current year. A larger sum was estimated, upon the theory that the Army is to be recruited to the full authorized strength of 25,000 enlisted men. This will hardly prove to be the case, and the amount of $130,000 for that purpose is deemed to be sufficient by the committee.

While such reductions have been made as would bring the appropriations within the lowest amount compatible with the best interests of the Military Establishment, they still are sufficient to avoid the necessity for a deficiency and to enable the service to show its usual progress in efficiency.

[House Ex. Doc. No. 99, Fifty-second Congress, first session.]

WAR DEPARTMENT,
Washington, January 22, 1892.

SIR: I have the honor to transmit herewith a letter from the Surgeon-General of the Army, dated the 19th instant, recommending an amendment to the bill making appropriations for the support of the Army for the fiscal year ending June 30, 1893, so as to provide that so much of section 3709 of the Revised Statutes as requires advertisement before purchase shall not apply to the purchase of medical and hospital supplies.

Very respectfully,

S. B. ELKINS,
Secretary of War.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WAR DEPARTMENT, SURGEON-GENERAL'S OFFICE,
Washington, January 19, 1892.

SIR: I have the honor to recommend that the following be laid before the Speaker of the House of Representatives:

Section 3709 of the Revised Statutes provides that "All purchases and contracts for supplies or service in any of the Departments of the Government * * * shall be made by advertising a sufficient time previously for proposals respecting the same."

In compliance with this law, the medical and hospital supplies required for the use of the Army are so obtained, involving, as a rule, a delay of from three to five months, and sometimes longer, from the date of advertising until all the formalities have been complied with and the articles delivered, accepted, and paid for.

Section 3721, Revised Statutes, is as follows:

"The provisions which require that supplies shall be purchased by the Secretary of the Navy from the lowest bidder, after advertisement, shall not apply to * * * medicines."

I am satisfied that it will be in the interest of the public service, and therefore recommend that in the bill making appropriation for the Army, item "Medical and Hospital Department," for the fiscal year ending June 30, 1893, which is now before Congress, a similar provision be incorporated, so that the aforesaid item of the appropriation will read as follows, the words in italics being those submitted in this letter:

"Purchase of medical and hospital supplies, including disinfectants for general post sanitation; expenses of medical purveying depots, pay of employés, medical care and treatment of officers and enlisted men of the Army and Signal Corps on duty at posts and stations for which no other provision is made; for the proper care and treatment of cases in the Army suffering from contagious or epidemic diseases, and the supply of the Army and Navy General Hospital at Hot Springs, Ark.; advertising and other miscellaneous expenses of the Medical Department; the amount to be expended for pay of civilian employés not to exceed $45,000: *Provided, That so much of section 3709, Revised Statutes, as requires advertisement before purchase shall not apply to the purchase of medical and hospital supplies.*"

The proposed amendment does not involve any expense (in fact, will save it), but simply places the Medical Department of the Army upon the same footing, as regards the purchase of its supplies, as the Medical Department of the Navy. The excellent system of expert chemical examination in this office of medical supplies fully protects the Government from the acceptance of articles that are not of the best quality.

Very respectfully,

C. SUTHERLAND,
Surgeon-General, U. S. Army.

The SECRETARY OF WAR.

TREASURY DEPARTMENT, SECOND COMPTROLLER'S OFFICE,
Washington, D. C., June 11, 1889.

CONSTRUCTION OF A HOSPITAL AT THE MILITARY POST NEAR NEWPORT, KY.

By the act of March 3, 1887 (24 Stats., 555), the sum of $100,000 was appropriated for the "erection of necessary and suitable buildings" at a military post near Newport, Ky., and by the act of March 2, 1889, the additional sum of $50,000 was appropriated "for completion of construction of buildings at this post."

The estimates of the War Department for said buildings include the construction of a hospital. In the annual Army bills there is always inserted a general provision for "construction and repairs of hospitals." (See 23 Stats., 111; 24 Stats., 98; 25 Stats., 486.)

Under section 3678, Revised Statutes, which provides that "all sums appropriated for the various branches of expenditures in the public service shall be applied solely to the objects for which they are respectively made, and for no others," the question arises, from which appropriation must the cost of said hospital at Newport Barracks be paid? Congress has limited the cost of the "necessary buildings" at this post to $150,000, and if a hospital is one of the "necessary buildings" of a military post, as are the barracks, quarters, and storehouses, there can be no question but that its cost must be borne by the specific appropriation of $150,000; otherwise it is useless for Congress to limit the cost of the buildings at any post, and the whole logic of specific appropriations falls to the ground. It has been repeatedly held by this office that when a specific appropriation is available no other appropriation (which

otherwise might be construed to authorize an expenditure in general terms) can be drawn upon.

The necessary buildings at Newport Barracks, Ky., are to be constructed at a cost of not more than $150,000. The question, therefore, resolves itself into the determination of what are the "necessary buildings" at a military post. By reference to Army Regulations, 1881, paragraph 1824, it will be observed that under this head are included the permanent buildings for the use of the Army as barracks, quarters, hospitals, storehouses, offices, and stables. If I am correct, therefore (and the Army Regulations seem to bear me out), in including a hospital among the "necessary buildings" at a military post, I am unable to justify an expenditure from any appropriation other than the two specific appropriations above named—$100,000 and $50,000. If expenditure from any other appropriation were allowed, it would be manifestly absurd and useless for Congress to place any limitations upon the amount of money to be expended in connection with any specific object, or, in other words, the practice of making specific appropriations fails of its purpose, and might as well be discontinued.

B. F. GILKESON,
Comptroller.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 550.

EMMA S. CAMERON.

MARCH 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4121.]

The Committee on War Claims, to whom was referred the bill (H. R. 4121) to authorize and direct the Secretary of War to investigate the claim made for fuel alleged to have been taken and used by the U. S. Army, during the war, from the property in Chattanooga known as "Cameron Hill," and to provide for the payment thereof, submit the following report:

This claim was before the Fifty-first Congress and was referred to the Committee on War Claims, which committee made a favorable report. A thorough investigation into the case has led your committee to the same conclusions as the committee in the last Congress, and that report is therefore appended as a part of this report.

Your committee recommend that the bill pass.

[House Report No. 1591, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2377) for the relief of Emma S. Cameron, widow of James Cameron, deceased, report as follows:

Your committee adopt the report, hereto annexed, from the Committee on Claims of the Senate, and report back the bill and recommend its passage with the following amendment: In line 3 strike out "twenty" and insert "ten."

[Senate Report No. 487, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 1127) to pay Emma S. Cameron for property taken and used by the Army during the late war, having had the same under consideration, make the following report:

The claim was favorably reported by the Committee on Claims of the Senate, Forty-second Congress, and passed the Senate, but was not acted on in the House. It was also favorably acted on by the Committee of the Senate in the Forty-third Congress.

James Cameron, the husband of Emma S. Cameron, was before and during the late war of the rebellion the owner of a homestead in the city of Chattanooga, Tenn., known as Cameron Hill, containing about 40 acres, the same having been paid for out of the patrimony of Mrs. Cameron. The location was a beautiful and a commanding one. About 37 acres of this land was thickly covered with a forest of large oak trees. Two and a half acres were highly cultivated to orchard and grape. The dwelling house, studio, small house, barn, outbuildings, fences, and improvements were in a good state of repair. This property was occupied as a residence by Mr. Cameron and

his wife at the time of the breaking out of the war. In September, 1863, the Union Army, under command of Gen. Rosecrans, entered the city of Chattanooga and took possession of this property and made such use of the premises as the commander thought for the best interests of the Army.

The trees, including orchard, were cut down and mostly used by the troops for fuel; the same use was made of the fences and outhouses and all the structures except the residence.

The proofs show this was absolutely necessary, as the weather was extremely cold and there was no other available supply of fuel. The proofs make it further apparent that for the purpose of maintaining its position at Chattanooga the Army was compelled to further permanently injure and disfigure said premises by the erection of earthworks upon them, and that the residence, a commodious one, built of concrete, and the premises, were occupied and used by our troops until the close of the war.

The loyalty of Mr. Cameron and his wife was so marked, and their cheerful sacrifices for the aid and comfort of the Union soldiers so frequent and constant, as to attract the attention and secure the good will of the commanding and many subordinate officers of our Army.

By special field order No. 69, Maj. Gen. Rosecrans appointed a commission to adjust claims against the United States. Mr. Cameron and his wife filed their claims before this commission, in which they alleged the amount due them was $24,987.50.

Upon the proof taken before this commission it found the ownership of the property established, also the injury and destruction and the resulting loss to the claimants, $20,000.

A fair estimate of the yield of this forest in cord wood per acre is about 300 cords. Excluding the consideration of the ruin of this property for a home, and of the destruction of orchards, forests, and buildings as such, but regarding them simply as quartermaster's stores and supplies used by the Army, and allowing a reasonable rental for the use and occupation of the premises by our Army for the time it was so occupied, about two years, the committee have concluded that about $10,000 would be a proper allowance for the property thus consumed, including rental.

Mrs. Emma S. Cameron is now the widow of James Cameron, who died since the presentation of this claim in the Forty-third Congress.

Among the documents submitted to the committee in support of this claim is the following letter from Maj. Gen. U. S. Grant, commanding the armies of the United States, addressed to Mrs. Cameron:

HEADQUARTERS ARMIES OF THE UNITED STATES,
City Point, Va., August 9, 1864.

MY DEAR MADAM: Your letter of the 8th of July was duly received but not so promptly answered. I know yours to be a case where prompt payment should be made and am willing to indorse your claim. I believe that your property at Chattanooga has been appraised by a board of officers. If so, send me the proceedings of the board and I will make my indorsement and return them to you. If you have no such evidence of the claim, inform me and I will order a board to assess it and will indorse the proceeding. This will be the first step toward a collection.

Yours, truly,

U. S. GRANT.

MRS. CAMERON.

And also the following indorsement made by Gen. Grant upon the statement of the claim as made to commission under field order No. 69:

HEADQUARTERS ARMIES OF THE UNITED STATES,
City Point, Va., October 25, 1864.

I know the property within described, and the parties owning it, well. Mr. Cameron and his wife have been unflinching friends of the Government from the beginning of our troubles to the present day. There are no more thoroughly loyal people anywhere in the North, and they are entitled to protection and pay for ther property converted to Government use. What is now known as Fort Cameron, Chattanooga, was the private property of Mr. Cameron. From its elevated and commanding position it had to be taken and fortified. By this means the entire property, with improvements, has been entirely destroyed for private use. I would recommend that the property be purchased at a fair valuation for Government use.

U. S. GRANT,
General.

The committee therefore report a bill for the payment to the claimant, Mrs. Emma S. Cameron, of the sum of $10,000, and recommend that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 551.

A. S. CORE.

MARCH 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1945.]

The Committee on War Claims, to whom was referred the bill (H. R. 1945) for the relief of the late A. S. Core, submit the following report:

This claim was presented to the Fifty-first Congress and favorably reported upon by the Committee on War Claims, to whom it was referred.

After an investigation of the facts in the case the report of that committee, a copy thereof being hereto attached, is adopted and made a part of this report.

Your committee recommend that the bill referred to them do pass.

[House Report No. 2619, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 1979) for the relief of Andrew S. Core, have considered the same, and adopt the report hereto annexed from the Committee on War Claims of the Fiftieth Congress, and report back the bill and recommend its passage.

[House Report No. 1137, Fiftieth Congress, first session.]

The claimant, Andrew S. Core, was from the 1st day of August, 1863, until the 27th day of November, 1864, collector of internal revenue for the second district of West Virginia. That said Core was charged as such collector with an assessment in various forms of $297,979.20, and deposited and paid to assessors and assistant assessors, as required by law, the sum of $234,910.38, leaving a balance on the face of his account as such collector of $63,068.83 as due the Government of the United States.

There is no pretense that any part of this balance on the books of the Treasury against Collector Core was ever appropriated or retained by him, but resulted from conditions over which he had no control and no power to change or prevent. His collection district comprised the counties of Lewis, Upshur, Harrison, Barbour, Randolph, Baxter, Doddridge, Ritchie, Gilmer, Wood, West, Jackson, Mason, Putnam, Kanawha, Cabel, Clay, Roane, Tucker, and Webster—nineteen in all—the eastern portion of said district bordering upon the Virginia line, and the whole of the same without railroad facilities, and during his term of office as collector of internal revenue was often overrun by lawless bands of guerrillas and subject to frequent invasions by Confederate troops, so that said collector was often obliged to pack up and remove his official papers belonging to his said office for the purpose of securing them against loss and destruction. The disturbed and dangerous condition of this district during the period of Collector Core's term of office is shown by the following affidavit of Noah Rexroad, verified by the clerk and judge of the circuit court of Ritchie County, as well as by many others in the possession of your committee:

STATE OF WEST VIRGINIA, *Ritchie County, to wit:*

This day personally came before R. S. Blair, notary public in and for the county aforesaid, in the State of West Virginia, Noah Rexroad, of said county of Ritchie and State aforesaid, and made oath as follows: That he is now and has been for *many years a resident of the* county of Ritchie, and was during the years 1863 and

1864; that he is well informed as to the internal condition of the counties composing the second collection district in the years 1863 and 1864, in which Gen. A. S. Core was the collector of internal revenue; that a large portion of said district was either in the actual possession of the rebels at the time aforesaid or so infested by Confederate soldiers or guerrillas that it was not only unsafe to visit the counties composing said district for any purpose whatever, much less for collecting the taxes due the Government; that this was particularly the case in the counties of Upshur, Barbour, Randolph, Braxton, Gilmer, Jackson, Roane, Cabel, Clay, Calhoun, Tucker, and Webster; that for the reasons aforesaid affiant believes that it would have been impossible for the said collector or his deputies to have collected much, if any, money due the Government in the counties mentioned aforesaid; as for the other counties composing said district, affiant believes that the most, if not all, the taxes in the hands of said collector might have been collected, except a part of the counties of Lewis, Kanawha, and Putnam; that during the years aforesaid great excitement among the people prevailed in the counties composing said collection district, and constant fear prevailed amongst the people by reason of threatened raids of the Confederate army and bands of guerrillas, who were known to be in many of the counties or a short distance from the same, and that in most of the counties comprising said district it was impossible for said collector to have collected the taxes due the Government; that during the time aforesaid an army of Confederate soldiers, supposed to be at least 1,200 in number, under the command of one Gen. Jones, came into the county of Ritchie and took affiant and many other prisoners, and also took possession of the town of Harrisville, the county seat of Ritchie, the county in which your affiant and the said Core, collector as aforesaid, resided and still reside; that the collector aforesaid had his office and resided at the time aforesaid some 5 miles distant from said town; that it was a frequent occurrence during the time aforesaid that the citizens, for fear of said raids, had to remove their goods and valuables to places of safety. Affiant speaks particularly of the county of Ritchie thus fully because said collector had his office in said county, and for the further reason that the county of Ritchie, by reason of its location, was not so liable to be overrun with raids as a large majority of the counties composing said collection district. Affiant further states that he is well acquainted with said Core and has been for many years; that he and said Core have lived for a long time in said county and in the same neighborhood; that affiant has had many business transactions with him, and that he has no hesitation in saying that he is strictly an honest man, and that he always found him to keep inviolate his word; that affiant during his acquaintence with said Core has held the office of sheriff, justice of the peace, and other minor offices in the county of Ritchie, and believes he has had every opportunity necessary to form a correct estimate of the standing and character of said Core.

NOAH REXROAD.

[SEAL.] RO. S. BLAIR,
Notary Public.

Having read the foregoing affidavit of Noah Rexroad, I hereby verify the statements therein contained.

WM. H. DOUGLASS.
Clerk of Circuit Court of Ritchie County, West Virginia.

RITCHIE COURT-HOUSE, *March 25, 1868.*

I fully concur in the statements made in the foregoing certificate of Mr. Rexroad.

C. J. STEWART,
Judge of the Fourth Judicial Circuit of West Virginia.

Congress, in furtherance of its policy in granting relief in such cases, passed the following act, and a joint resolution giving construction to the same:

AN ACT to authorize the proper accounting officers of the Treasury to settle the accounts of Andrew S. Core.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury are hereby authorized and directed to settle and close the accounts of Andrew S. Core, late collector of internal revenue for the second district of Virginia (now West Virginia), upon principles of justice and equity.

A RESOLUTION to construe an act entitled "An act to authorize the accounting officers of the Treasury to settle the accounts of Andrew S. Core.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act to authorize the accounting officers of the Treasury to settle the accounts of Andrew S. Core" shall be so construed as to authorize and direct the said accounting officers to settle and close the said accounts

by crediting the said Core with the amount of such uncollectable or unaccounted for tax lists or bills placed in his hands for collection as they may be satisfied have been lost or destroyed by reason of rebel raids, and have not been collected by him.

Approved July 27, 1868.

The report of the committee of clerks designated by the Treasury Department to adjust the said account of Collector Core, under said resolution of Congress, settled the same in the manner following:

To balance the said account between the said assessments as charged against said collector and the amount collected, paid into the Treasury, and accounted for by him, the said committee gave him credit:

(1) For his entire compensation	$7,220.94
(2) A cash deposit of $5,568.72, which was due him from deputies in settlements with them, and no part of which he had collected	5,568.72
(3) Credit to balance account	50,279.17
Total	63,068.83

The unquestioned proofs show that the said collector during his said term of office paid out in the collection of the revenue the sum of $5,025 as legal and necessary expenses, for which no credit was given him in the adjustment of said account.

After a full and careful consideration of the facts in this case your committee are of the opinion that it was the intention of Congress that the said accounting officers of the Treasury should "settle and close" the said account by crediting Collector Core with the full uncollectible balance standing against him; and that Congress did not intend in such settlement to deprive him of the pay to which he was entitled by existing law for his services as such collector, during a term of one year and three months, rendered at the peril of his life, or to exact from him the payment of $5,568.72 in cash, the balance due from deputies but uncollectible, in order to close his said accounts. "I think it was in January, 1864," says Collector Core, "that I thought the dangers too great to have the responsibility as collector of this district. I asked to be relieved, but was urged to continue."

He was not relieved, but continued going into fields of danger for the purpose of collecting Government revenues where no deputy could be employed to go, and paying over to the Government all he could collect *or any* civil officer could collect in such a district without the aid and protection of a military power.

He now asks, and your committee think justly, that Congress shall, by the passage of this bill, recognize the justice of his claim to be paid for his said services as collector of internal revenue during his said term of office, amounting to the said sum of $7,220.94; and to the payment to him of the sum which he was required to pay in cash to the Government as a condition of said settlement, to wit, $5,568.72; and for his legal and necessary expenses incurred in making revenue collections during his said term for which no credit was given him in said settlement, to wit, $5,025; amounting in all to $17,814.66.

Your committee therefore recommend that the said bill (H. R. 4148) do pass, with an amendment as follows: Strike out in lines 5 and 6 "eighteen thousand one hundred and sixty-four dollars," and insert in lieu thereof "seventeen thousand eight hundred and fourteen dollars and sixty-six cents."

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62D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 552.

CLAIMS OF ANY STATE FOR DEFENSE OF THE UNITED STATES.

MARCH 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5452.]

The Committee on War Claims, to whom was referred the bill (H. R. 5452), to settle and adjust the claims of any State for defense of the United States, submit the following report:

This claim was presented to the Fiftieth Congress and favorably reported upon by the Committee on War Claims of that Congress.

The investigation of the case has led your committee to substantially the same conclusions as those arrived at by the committee of the Fiftieth Congress, and the report of that committee, a copy of which is hereto attached, is made a part of this report.

Your committee recommend that the bill referred to them do pass.

[House Report No. 1430, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (S. 1057) to settle and adjust the claims of any State for expenses incurred by it in defense of the United States, have examined the same and respectfully report:

Your committee adopt Senate report from the Committee on Claims of the present Congress, and we affix this report for the information of the House.

Your committee therefore report back the bill and recommend its passage.

[Senate Report No. 61, Fiftieth Congress, first session.]

We recommend that the bill be amended by striking out in the third line the words "proper accounting officers" and inserting the word "Secretary;" and by striking out "they are" in the fourth line and inserting "he is," and that the bill so amended do pass.

A letter from the Third Auditor of the Treasury Department, under date of January 20, 1885, states clearly the provisions of the bill, and we affix this letter for the information of the Senate.

TREASURY DEPARTMENT, *January 22, 1885.*

SIR: Referring to your indorsement of the 14th instant on the bill (H. R. 7919) to settle and adjust the claims of any State for expenses incurred by it in defense of the United States, for an expression of views thereon by this Department, I have the honor to inclose herewith copy of the report of the Third Auditor in the matter for your information.

Very respectfully,

H. MCCULLOCH,
Secretary.

Hon. GEORGE W. GEDDES,
Chairman Committee on War Claims, House of Representatives.

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
Washington, D. C., January 20, 1885.

SIR: I have the honor to acknowledge the receipt of inclosed bill, H. R. No. 7919, Forty-eighth Congress, second session, referred by Hon. George W. Geddes, chairman of the Committee on War Claims, to you on the 14th instant, and forwarded to this office on the 17th instant for report.

In reply, I would state that in my judgment this bill would provide for the allowance of that class of claims incurred by the States for services and expenses of commissioned officers and enlisted men who were commissioned or enlisted for the purpose of aiding to suppress the late insurrection against the United States whether they were mustered into or employed in the United States service or not.

Under the rules of the Treasury for the settlement of claims of States, under act of Congress approved July 27, 1861, all expenses incurred on account of commissioned officers or enlisted men unless they were actually mustered or employed in the United States service, have been disallowed as not having been provided for in said act.

The States, in raising volunteers called for by the President or Secretary of War, incurred expenses on account of officers and enlisted men, who, from various causes, either from death, disability, or consolidation of regiments, failed to muster into the United States service.

Such expenses as the United States would have incurred had the Secretary of War raised the troops direct should be reimbursed to the States, and this bill provides for the reimbursement of this class of claims.

In my judgment the States should be reimbursed all expenses properly incurred in raising their troops which the United States would have incurred if they had been raised directly under orders of the Secretary of War by officers of his own appointment.

The bill above referred to is herewith returned.

Very respectfully,

E. W. KEIGHTLEY,
Auditor.

Hon. HUGH MCCULLOCH,
Secretary of the Treasury.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 553.

LEVI STARN.

MARCH 7, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 110.]

The Committee on War Claims, to whom was referred the bill (H. R. 2153) for the relief of Levi Starn, submit the following report:

Your committee are of the opinion that this claim should be referred to the Court of Claims for a finding of facts, and report herewith a resolution to that effect and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 554.

CYRUS MARTIN.

MARCH 7, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 109.]

The Committee on War Claims, to whom was referred the bill (H. R. 5382) for the relief of Cyrus Martin, submit the following report:

Your committee are of the opinion that this claim should be referred to the Court of Claims for a finding of facts, and report herewith a resolution to that effect and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 555.

INTEREST ON MONEY EXPENDED IN RAISING TROOPS.

MARCH 7, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4566.]

The Committee on War Claims, to whom was referred the bill (H. R. 4566) to reimburse the several States for interest on moneys expended by them on account of raising troops, etc., submit the following report:

The facts out of which this bill for relief arises will be found stated in a report made by this committee to the House in the Fiftieth Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 309, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 1474) to reimburse the several States for interest on moneys expended by them on account of raising troops employed in aiding the United States in suppressing the late insurrection against the United States, beg leave to report the same back to the House with the recommendation that it do pass.

This recommendation is founded upon the precedents which Congress has heretofore established of paying interest on moneys advanced by States on account of the war of 1812; also, Indian wars of 1835, 1836, 1837, and 1838, and the northeast frontier of the State of Maine, as evidenced by the following acts of Congress:

To reimburse Virginia, act of March 3, 1825, Stat. at Large, vol. 4, p. 132.
To reimburse Maryland, act of May 13, 1826, Stat. at Large, vol. 4, p. 161.
To reimburse city of Baltimore, act of May 20, 1826, Stat. at Large, vol. 4, p. 177.
To reimburse Delaware, act of May 20, 1826, Stat. at Large, vol. 4, p. 175.
To reimburse New York, act of May 22, 1826, Stat. at Large, vol. 4, pp. 192, 193.
To reimburse Pennsylvania, act of March 3, 1827, Stat. at Large, vol. 4, pp. 240, 241.
To reimburse South Carolina, act of March 22, 1832, Stat. at Large, vol. 4, p. 499.
To reimburse Alabama, act of January 26, 1849, Stat. at Large, vol. 6, p. 344.
To reimburse Georgia, act of March 3, 1851, Stat. at Large, vol. 6, p. 646.
To reimburse Maine, act of March 3, 1851, Stat. at Large, vol. 6, p. 626.
To reimburse New Hampshire, act of January 27, 1852, Stat. at Large, vol. 10, pp. 1, 2.
To reimburse Massachusetts, act of July 8, 1870, Stat. at Large, vol. 16, pp. 197, 198.

The President, by authority of Congress, called upon the governors of the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Kentucky, Michigan, Indiana, Illinois, Wisconsin, Minnesota, Iowa, Missouri, Kansas, Nebraska, Nevada, Oregon, and California to furnish volunteers and militia troops to aid the United States in suppressing the late insurrection against it, and these States expended various sums of money, which were advanced to the Government, *in enrolling, equipping,* subsisting, clothing, supplying, arming, paying, and *transporting regiments* and companies employed by the Government in suppressing

the late insurrection, and it matters not to the Government from what sources these States obtained the moneys advanced by them for the benefit of the Government, they are equally and justly entitled to be paid interest on such advances from the time they presented their claims to the Government for payment to the time when the same were refunded by the Secretary of the Treasury.

These States incurred heavy obligations of indebtedness on account of raising these troops, on which they paid interest, and many of them are still paying interest on their bonded indebtedness.

As the Government had the use and benefit of these advances made by these States, above mentioned, and that, too, at a time when greatly needed, and added largely to the maintaining of the credit of the Government, it is deemed by your committee but equitable and just that interest should be allowed equally to all the States on moneys advanced by them to aid the Government in furnishing troops.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 556.

HEIR OF HUGH WORTHINGTON.

MARCH 7, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4827.]

The Committee on War Claims, to whom was referred the bill (H. R. 4827) for the relief of the heir of Hugh Worthington, submit the following report:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee adopt the said report as their own and report back the bill and recommend its passage.

[House Report No. 1739, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 8782) for the relief of Sarah A. Oakes, only legal heir of Capt. Hugh Worthington, deceased, having carefully considered the same, report:

That from the evidence presented to your committee it is clearly and fully established that in August, A. D. 1861, Hugh Worthington was, and for a considerable time prior thereto had been, the owner of three-fifths of a large, staunch, and powerful steamboat called the *Eastport*, and that one Elijah Woods was her master; that said Hugh Worthington was loyal to the United States Government, and a pronounced Union man in August, 1861, and before that time, and so continued till his death, which occurred in March, A. D. 1876; that said Worthington was appointed deputy surveyor of the port of Cairo, Ill., in September, 1861.

That the said steamer *Eastport*, in August, 1861, was lying for a short time at the port of Paducah, Ky., and without the consent or knowledge of said Worthington was, by the connivance of her master, taken up the Tennessee River, out of her regular channel of trade, and was there captured by the insurrectionary forces, who at once began to convert her into a gunboat; that in February, 1862, at the fall of Fort Henry the *Eastport* was captured by the Union forces and taken to the navy-yard at Mound City, Ill., where she was afterwards converted into a gun boat and ram. That afterwards, when said *Eastport* had been about four months a part of the Union fleet, part of the time engaged in the investment of Columbus, she was libeled by an informer under the act of Congress entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861, in the United States district court for the southern district of Illinois.

That from an inspection of the record of the proceedings of said court in said case the said district court obtained jurisdiction of the subject-matter of the libel only by reason of the averments in the libel that, "said steamer was used by and with the knowledge and consent of the owner in aiding the present rebellion." That as appears by the record of the proceedings in admiralty, there was no jurisdiction of *the person of said Hugh Worthington*; he is not named in the proceedings as owner

of the *Eastport*, or otherwise, nor is his name found in the record of the judgment, although, as appears from a great mass of evidence, said Worthington resided in the said southern district of Illinois, was a well-known Union man, and was in the service of the United States Government when the said judgment was entered. That the record of said judgment and sale fails to show a compliance with the admiralty rule and the order of the court requiring the sale of the steamer *Eastport* to be advertised twenty-five days; that the said steamer was appraised at $40,000 by the United States in February, 1862, as appears by record of the appraisement presented us, and that she was reasonably worth that amount at the time she was taken from said Worthington is fully established by sworn testimony in this claim.

That at the sale of said steamer by the United States marshal on the 4th day of October, 1862, she was purchased by the United States Government, and was by said Government used as a gunboat and ram till she was sunk in Red River just after the capture of Vicksburg, while in the naval service; that said Worthington never heard of the condemnation proceedings till after the *Eastport* had been sold and bought by the United States, and when he did hear of her sale he immediately employed counsel and at once began his efforts to recover her value, and such efforts were continued by him during the remainder of his life; that the widow of said Hugh Worthington died in December, 1876, and that said Sarah A. Oakes is the daughter of said Hugh Worthington and his only heir; that the rental value of said *Eastport* after she was taken from the Confederate forces, and while being used by the Government, was about $200 per day; that said Hugh Worthington, during his life, did not, nor has his said daughter since his death, received any pay from the Government for said steamer, and that persistent efforts therefor have been made ever since 1862.

Your committee fully believing this to be a just and meritorious claim, and that in equity, justice, and good conscience the Government should pay to the said heir of Hugh Worthington the value of his interest in said *Eastport*, recommend that said bill do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 557.

DAMS ACROSS KANSAS RIVER.

MARCH 7, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BLANCHARD, from the Committee on Rivers and Harbors, submitted the following

REPORT:

[To accompany H. R. 3519.]

The Committee on Rivers and Harbors, to whom was referred the bill (H. R. 3519) granting the right to erect and maintain dams across the Kansas River, within Shawnee County, in the State of Kansas, have had the same under consideration and report the same back to the House and recommend its passage with the following amendment, viz:

Add to said bill the following provisos, to wit:

Provided, That on notice by the Secretary of War that said dam or dams are obstructions to navigation, they or any of them so obstructing shall be at once removed by the owner or owners thereof at his or their expense: *And provided further*, That if, after due and sufficient notice, the owner or owners of said dam or dams shall neglect or fail to remove or modify said obstructions in such manner as the Secretary of War may direct, the said Secretary is hereby authorized and directed to cause them to be removed, and to institute proceedings against the person or persons owning or controlling said dam or dams for the recovery of the expense thereof before the circuit court of the United States in and for the district in which said dam or dams may be located.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 558.

STOCKBRIDGE AND MUNSEE INDIANS.

MARCH 7, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LYNCH, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 3594.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 3594) for the relief of the Stockbridge and Munsee tribe of Indians in the State of Wisconsin, respectfully report:

This bill was introduced for the purpose of settling a question of tribal rights among the members of the Stockbridge and Munsee tribe of Indians. The history of this right dates back to 1843, when it was provided that the Stockbridge tribe of Indians might become citizens. This they declined to do.

In 1846 the act of 1843 was repealed, and the tribe restored to their tribal rights, customs, and privileges.

In 1856 the tribe was removed from Calumet County to Shawano County, on a new reservation, and many of the members of the tribe took allotments of land in severalty.

In 1871 another act was passed providing for an allotment and a new enrollment of the tribe.

The act of 1871 excluded all who received allotments under the act of 1856; also those who received allotments of land under the act of Congress March 3, 1843, or August 6, 1856, and all who were not of Stockbridge and Munsee descent.

Under those restrictions and means resorted to by those intrusted with the enrollment more than half the members of the Stockbridge tribe, to the number of about 140 members, were omitted from the tribal roll in 1871. Among those so omitted were all of those who took allotments under the treaty of 1856.

Another provision of the act of 1871 directed that all persons not on the tribal roll, as made in 1871, should be put off the reservation.

The object of this bill is to provide for a correct roll of the tribe, and particularly to avoid the effect of the act of 1871, disfranchising more than half the tribe, and to restore all members of the tribe to their tribal relations under the treaty of 1856, and the act of Congress of 1871.

This is but a brief outline of the condition of membership in that tribe. The details and a complete history of all the complications are given in the letter of the Commissioner of Indian Affairs, dated February 19, hereto attached and made a part hereof. Also the brief of J. C. Adams, referred to in said letter and made a part thereof. Also the letter of the Land Commissioner, of February 29, as approved by the Secretary of the Interior, in response to an inquiry for a report from the office upon the bill. All of which are annexed hereto and made a part hereof.

The Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, recommended that section 1 be amended so as to read as follows:

That all persons who were actual members of said tribe of Indians at the time of the execution of the treaty of February fifth, eighteen hundred and fifty-six, and their descendants, and all persons who became members of the tribe under the provisions of article six of said treaty, who did not in and by said treaty and have not since its execution separated from said tribe, are hereby declared members of said Stockbridge and Munsee tribes of Indians, and entitled to their pro rata share in tribal funds, and in the occupancy of tribal lands; and all members who entered into possession of the lands under the allotments of eighteen hundred and fifty-six and of eighteen hundred and seventy-one, and who by themselves, or by their lawful heirs, have resided on said lands continuously since, are hereby declared to be owners of such lands in fee simple in severalty, and the Government shall issue patents to them therefor: *Provided*, That in all cases where allotments of eighteen hundred and seventy-one shall conflict with allotments of eighteen hundred and fifty-six, the latter shall prevail.

That section 2 be amended by adding thereto the following:

Provided, That in all cases where allotments of 1871 shall conflict with allotments of 1856, the latter shall prevail.

Which amendments are recommended by the Committee on Indian Affairs, and with such amendments the committee recommends the passage of the bill.

When so amended the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, recommends the passage of the bill.

DEPARTMENT OF THE INTERIOR,
Washington, March 3, 1892.

SIR: I have the honor to acknowledge the receipt, by your reference of this day, of the correspondence in relation to H. R. 3594, "A bill for the relief of the Stockbridge and Munsee tribes of Indians in the State of Wisconsin," with request for the views of the Department thereon.

It seems from the report of the Commissioner that he has carefully considered this matter and that the amendments suggested by him provide for the relief of the so-called Old Citizen party of the Stockbridge tribe, and would be a just settlement of all the troubles existing among the Stockbridge people.

In view of this statement, the correspondence is herewith returned with recommendation for its favorable consideration.

Very respectfully,

JOHN W. NOBLE,
Secretary.

Hon. THOMAS LYNCH,
House of Representatives.

DEPARTMENT OF THE INTERIOR,
Washington, March 1, 1892.

SIR: I have the honor to transmit herewith, without consideration of the contents thereof, copy of a communication of 29th ultimo from the Commissioner of Indian Affairs and accompanying papers, being a reply to your letter of 27th January last, transmitting H. R. 3594, "A bill for the relief of the Stockbridge and Munsee tribes of Indians in the State of Wisconsin."

Very respectfully,

GEO. CHANDLER,
Acting Secretary.

Hon. THOMAS LYNCH,
House of Representatives.

Respectfully returned to the Hon. Secretary of the Interior for his opinion thereon.

Respectfully,

THOS. LYNCH, M. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 29, 1892.

SIR: In my report of February 19, 1892, relative to the question of the rights of alleged intruders on the allotted lands of the Stockbridge Indian Reservation in Wisconsin, I stated that I had received a letter from Hon. Thomas Lynch, transmitting, with request for a report thereon, a bill (H. R. 3594) introduced by him in the House of Representatives "for the relief of the Stockbridge and Munsee tribes of Indians in the State of Wisconsin," and that I would submit a report to you thereon at an early date.

This bill sets out in its preamble that a treaty between the United States and the Stockbridge and Munsee Indians was entered into February 5, 1856 (11 Stats., 663), and that by the interpretation placed by the "Government officials" on the act of February 6, 1871 (16 Stats., 404), a large part of the Indians of the Stockbridge and Munsee tribes who signed the treaty of 1856, and who have continued with the tribe from the making of the said treaty to the present time are excluded from participation in the tribal funds, and a right to occupy the reservation provided for them by said treaty of 1856. It then proposes to provide:

"That all persons who were actual members of said tribe of Indians at the time of the execution of the treaty of February fifth, eighteen hundred and fifty-six, and their descendants, and all persons who became members of the tribe under the provisions of article six of said treaty, and their descendants, who did not in and by said treaty, and have not since its execution, separated from said tribe, are hereby declared members of said Stockbridge and Munsee tribes of Indians and entitled to share in former tribal funds; and all members who entered into possession of lands under the allotments of eighteen hundred and fifty-six, and of eighteen hundred and seventy-one, and have resided on said lands continuously since, are hereby declared to be owners of such lands in fee simple in severalty and the Government shall issue patents to them."

Section 2 proposes to make it the duty of the Secretary of the Interior, without unnecessary delay after the passage of the act, to cause to be taken an enrollment of said tribe on the basis of the provisions of this act, a copy of which enrollment shall be filed in the Department of the Interior and a copy in the records of the tribe.

The object of this bill is to provide a remedy for the controversies and dissensions that have existed among the members of the tribe for so long a time, a history of which is briefly given in my report of February 19, 1892, referred to at the beginning of this report. I do not think it necessary here to repeat that history, but I inclose a copy of my said report, from which it will be seen that certain members of the Stockbridge tribe, recognized as such by the treaty of 1856, were, on account of the allotments taken by them under that treaty, excluded under the provisions of the act of February 6, 1871, from enrollment either as citizens of the United States or as Indians, and now on account of the fact that they were so excluded from enrollment, it is claimed by one faction of the tribe, known as the Indian party, that they are not entitled to the allotments made to them under the treaty.

Mr. J. C. Adams, who is a prominent, highly intelligent and respected member of the Stockbridge tribe, is now in this city, and has informally submitted to this office certain amendments which he proposes to the bill introduced by Mr. Lynch. A copy of the bill (marked A) will show the amendments proposed by Mr. Adams, and it is herewith inclosed.

I also inclose another copy of the bill (marked B), which will show the manner in which I would suggest that it be amended. It will be seen that with the exception that I do not recommend the striking out of the words "and of eighteen hundred and seventy-one," in lines 13 and 14, on page 2, the amendments I propose are the same in effect as those proposed by Mr. Adams, although the language suggested by me varies slightly from that suggested by him. Mr. Adams, however, has informally expressed his satisfaction with my suggested amendments.

I do not adopt Mr. Adams's suggestion as to striking out words in lines 13 and 14, because I think that the allotments made under the act of 1871 that do not conflict with those made under the treaty of 1856, should be confirmed and patented to the allottees as well as those made under the provisions of the treaty, and the proposed proviso to the section will save the possibility of controversy over the allotments.

The objects of the amendments proposed to the bill are:

First. To save to those parties who were recognized as members of the tribe *under the treaty of 1856,* and who were excluded from enrollment under the act

of 1871, all their pro rata rights in the common property of the tribe as at present held.

Second. It is proposed to strike out the word "former," in line 11, for the reason that the tribal funds were divided between those members of the tribe who became citizens of the United States under the act of 1871, and those who were enrolled under that act as Indians. If the settlement had at that time, which was made upon the basis of the numbers of the two classes participating therein, leaving out about 140 members of the tribe, were now distributed, an appropriation of moneys out of the Treasury of the United States would be necessary to restore the "former" tribal funds, as that portion which has been paid per capita to the citizens under the act of 1871 can not now be recovered. It is thought better, therefore (and Mr. Adams agrees), that the settlement had with reference to the tribal funds under the act of 1871 shall not now be disturbed.

Third. To save to those heirs of allottees under the treaty of 1856, who have occupied the allotments made to their ancestors all the rights of such ancestors in the lands so occupied by them.

Fourth. By the proposed proviso to the first section of the bill, all possibility of controversy in cases of conflict of allotments will be obviated. The allotments made under the treaty would doubtless prevail in cases of conflict with those made under the act without this amendment; but in view of the past experience of these people it seems to be best that the law should be so clear as to the rights of each class of allottees that no reasonable grounds for dissension shall exist.

Section 1 of the bill, amended as I have indicated above, would read as follows, viz:

"That all persons who were actual members of said tribe of Indians at the time of the execution of the treaty of February fifth, eighteen hundred and fifty-six, and their descendants, and all persons who became members of the tribe under the provisions of article six of said treaty who did not in and by said treaty and have not since its execution separated from said tribe, are hereby declared members of said Stockbridge and Munsee tribes of Indians, and entitled to their pro rata share in tribal funds and in the occupancy of tribal lands; and all members who entered into possession of the lands under the allotments of eighteen hundred and fifty-six and of eighteen hundred and seventy-one, and who by themselves or by their lawful heirs have resided on said lands continuously since, are hereby declared to be owners of such lands in fee simple in severalty, and the Government shall issue patents to them therefor: *Provided*, That in all cases where allotments of eighteen hundred and seventy-one shall conflict with allotments of eighteen hundred and fifty-six the latter shall prevail."

In view of the fact, as will be seen from my said report of February 19, 1892, that the so-called Old Citizen party of the Stockbridge tribe appear to have had great injustice done them by being excluded from enrollment under the law of 1871 either as citizens of the United States or as members of the Indian tribe, and by reason of such unjust exclusion from enrollment have been denied the right even to hold and occupy the allotments received by them under the treaty which were made the cause for excluding them from enrollment, I am of the opinion that Congress should make some provision to relieve them from such wrong. The bill introduced by Mr. Lynch, amended as I have suggested above, seems to me to provide a proper relief for these parties, and I think would be a just settlement of all the troubles existing among the Stockbridge people.

I would recommend, therefore, that the bill be returned to Mr. Lynch, who, as will be seen from his letter referring this bill to this office, is acting in the capacity of a subcommittee of the Committee on Indian Affairs of the House of Representatives, with the suggestion that if the bill were amended as indicated, its passage would seem to be altogether desirable, and with a recommendation for its favorable consideration.

In addition to a copy of my report, above referred to, I inclose herewith a copy of the brief of Mr. Adams in behalf of the Stockbridge and Munsee tribes on the question, and the evidence taken relative to the right of Stephen Gardner to occupy his allotment under the treaty of 1856, which accompanied Mr. Adams's said brief.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 19, 1892.

SIR: I am in receipt of your letter of April 20, 1891, in which you say that Senator Sawyer had on that day called upon you and recommended that "the Stockbridge Indians who are trespassers should be put off the allotted lands and allowed to settle on the reservations not allotted," and direct that unless some strong objection to this course was known at this office, this be done. Agent Kelsey, of the Green Bay Agency, was directed, April 27, 1891, to report the number of Stockbridge Indians who are trespassing upon lands that have been allotted to members of the tribe, the name of each, his status as a Stockbridge, and whether he is a member of the tribe under the act of 1871, or a citizen of the United States in accordance with the provisions of that act, or an alleged citizen of the United States, claiming to be such under the law of 1843.

Replying to this, under date of May 16, 1891, Agent Kelsey reported:

(1) The names of certain parties alleged to be citizens under the act of 1843, not of Stockbridge or Munsee descent, and on lands allotted to members of the tribe under the act of 1871, as follows:

"Stephen Gardner and George Gardner, on land allotted to Sterling Peters; Simon Gardner, on land allotted to Jeremiah Slinguland; Daniel Gardner and Joseph Gardner, on land allotted to Zachariah Miller; Lucinda Gardner, on land allotted to Sterling Peters."

(2) The names of parties alleged to be citizens under act of 1843, who are said to be trespassers on lands allotted under act of 1871, as follows:

"Jeremiah Johnston and Jacob Chicks, on land allotted to Zachariah Miller. George Bennet, jr., on land allotted to James Palmer; John Davids, on land alloted to Phebe Skickett; Walter Jourdan and Henry Jourdan, on land allotted to Benjamin Pye, 3d; Martha Hammer, on land allotted to Konkepot; Caroline Doxtater, on land allotted to Dennis Turkey."

(3) Stockbridges who are alleged to have been made citizens under the act of 1871, who are trespassers on lands allotted to the members of the tribe under that act, as follows:

"Elizabeth Gardner, on land allotted to Zachariah Miller; Algerine Jourdan, on land allotted to Benj. Yoccum; Louise Peters, on land allotted to Jennison Quinney; Samuel Wilber, on land allotted to Benj. Pye, 4th; Adland Davids, on land allotted to Simon S. Metoxen; Walter Wilber, on land allotted to Sterling Peters; Wallace Tousey and Laton Tousey, on land allotted to Darius Charles; are not of Munsee or Stockbridge descent, and not known under either treaty."

Under date of May 20, 1891, Agent Kelsey was instructed to report to this office when and by whom the improvements occupied by the persons reported by him to be intruders on the allotted lands of the Stockbridge Indian Reservation were made, and if not made by the alleged intruders themselves, the date when they secured possession of the same.

Replying to this under date of June 1, 1891, Agent Kelsey said that by inquiry he had learned that little improvement has been made upon the lands since the allotments were made under the act of 1871; that Stephen Gardner had brought under cultivation about 1½ acres of land allotted to Sterling Peters, and Jeremiah Gardner had improved a half acre of land allotted to Zachariah Miller.

As there appeared from this correspondence with the agent no reason not already known to the Department why the so-called intruders on the lands allotted under the act of 1871 should not be removed, Agent Kelsey was by letter of August 31, 1891, directed to carry the instructions of the Department in its letter of April 20, 1891, above referred to, into effect.

As it appeared by communications to this office from Hon. Thomas Lynch and others, that certain parties affected by these instructions to Agent Kelsey had been parties to the treaty of 1856 (11 Stats., 663), between the Stockbridge and Munsee tribe of Indians, and had received allotments of land in accordance with the provisions of that treaty on the reservations set apart for the use of the Stockbridge and Munsee tribe, and that the land upon which they are now located is the same land that was allotted to these parties under the provisions of the said treaty, but which had been reallotted to other parties under the provisions of the act of 1871, this office directed Agent Kelsey, by letter of December 14, 1891, to suspend further action under the letter of August 31, 1891, directing the removal of certain alleged intruders for sixty days, and until further notice, in order that evidence of the rights of these parties might be submitted in proper form for the consideration of this Department and determination as to *the proper action to be taken* by the Government in the premises. At the same

time Mr. Lynch was advised of this action, and requested to advise the interested parties to submit their evidence as early as practicable.

I am now in receipt of a report of January 29, 1892, from Agent Kelsey, transmitting a brief on behalf of Stephen Gardner, whose case has been agreed upon as a test case, and certain affidavits, from which it appears that the said Stephen Gardner was a signer of the treaty of 1856, and had the lands upon which he is now located allotted to him under the third article of said treaty; that he has continuously resided on the lands ever since and made improvements on the same; that he has no other homestead; that he was excluded from enrollment under the act of 1871, and that his allotment under the treaty was reallotted under that act to Sterling Peters.

This office has frequently discussed the complications that exist among the Stockbridge and Munsee tribe, and the controversies that have arisen between the various classes originally composing that tribe in reports to the Department, and special agents and inspectors of the Department have time and again investigated and reported on the matter, with suggestions for the relief of all the parties.

The beginning of the complications in the status of the members of the tribe and their rights in the property thereof, was the act of March 3, 1843 (5 Stats., 645), which, after providing for a division of the lands reserved for the Stockbridge Indians in severalty, by a board of commissioners to be chosen by said Indians, for a report of the proceedings of the said Commission, in triplicate, one part to be filed with the clerk of the county within which the lands are situated, one part with the secretary of the Territory of Wisconsin, and the other part with President of the United States, and for the patenting of the lands to individuals named in said report, provides, in section 7, as follows:

"That the said report and map shall be filed with the secretary of the said Territory and in the clerk's office of said county, and shall also be transmitted to the President, on or before the first day of January, eighteen hundred and forty-four, and, after the same shall have been filed and transmitted to the President as aforesaid, the said Stockbridge tribe of Indians, and each and every of them, shall then be deemed to be, and from that time forth are hereby declared to be, citizens of the United States, to all intents and purposes, and shall be entitled to all the rights, privileges, and immunities of such citizens, and shall, in all respects, be subject to the laws of the United States and of the Territory of Wisconsin in the same manner as other citizens of said Territory; and the jurisdiction of the United States and of said Territory shall be extended over the said township or reservation now held by them, in the same manner as over other parts of said Territory, and their rights as a tribe or nation, and their power of making or executing their own laws, usages, or customs as such tribe shall cease and determine: *Provided, however*, That nothing in this respect contained shall be so construed as to deprive them of the right to any annuity now due them from the State of New York or the United States, but they shall be entitled to receive any such annuity in the same manner as though this act had not been passed."

It will be observed that by this act each and every member of the Stockbridge tribe became a citizen of the United States on the 1st day of January, 1844, if the report of the commissioners, referred to therein, and the map, were filed with the officers named in the seventh section thereof on or before that date.

It appears from a letter to the Commissioner of the General Land Office of April 5, 1844, that this office expressed the opinion "that the act of Congress has been complied with, so far as the appointment of the commissioners and their proceedings as to the filing of their doings is concerned;" and from this it would appear that each and every member of the Stockbridge tribe of Indians became citizens of the United States on the 1st of January, 1844.

The passage of the act of 1843 was the occasion for the division of the Indians into two parties. One was called the Citizens' party, and the other the Indian party. The first of these professed to accept and the last to reject the provisions of the law, but it seems that the individuals of both parties or classes availed themselves of the privileges of the act whenever they saw fit to do so. On account of the division in the tribe and the controversies existing between the two classes thereof, Congress, by the act of August 6, 1846, repealed the act of 1843 above referred to, and restored the Stockbridge Indians to their ancient form of government with the powers held and exercised by them under their customs and usages as fully and completely as though the act of 1843 had never passed, but provided that those of the tribe who shall desire might enroll themselves as citizens of the United States and that those Indians who should become citizens of the United States under this act should forfeit all rights to receive

any portion of the annuities which then might be or might thereafter become due the nation of the Stockbridges by virtue of any treaty theretofore or thereafter entered into by the Government with said Stockbridge tribe of Indians.

It appears from the records of this office that none of the Indians enrolled themselves as citizens under this act, and I believe it to be a fact that none did so enroll themselves; those who had located upon separate alotments claimed that every member of the tribe was a citizen of the United States and that it was not within the power of Congress to forfeit their citizenship any more than to forfeit the rights of property which they might have.

In connection with this matter it may not be impertinent to say here that in his opinion of January 23, 1889 (19 Opinions Attorney-General), the Attorney-General, in considering whether the National Council of the Cherokee Nation had the power to forfeit the citizenship of a person previously lawfully admitted therein, said that "the right of citizenship can not be forfeited by legislative act directly or indirectly no more than can be the right of property."

The act of 1846 provided that in the event that any members of the Stockbridge tribe should elect to become citizens of the United States in accordance with the provisions thereof, the reservation upon which the tribe was located should be divided between those so electing to become citizens of the United States and those remaining Indians. As none elected to become citizens of the United States there was no basis for a division of the reservation between the parties, and it became impracticable to execute the law according to its intent. The object of this law, therefore, which appears to have been the settlement of the existing differences between the two parties of Stockbridge Indians, was not attained. A treaty was then entered into on November 24, 1848 (9 Stats., 935), with the so-called Indian party, the so-called citizen party being excluded from any discussion of or participation in the treaty.

This treaty recommended that certain allotments of land made under the act of 1843 be patented to the Indians who were located thereon and to the white men named in the schedule attached thereto. It provided that those Stockbridges who claimed to belong to the tribal organization should move west of the Mississippi. It was amended by the Senate so as to give seventy-two sections of land west of the Mississippi and $25,000 to the Indian party. The $25,000 provided for was paid to the Indians, but their removal was delayed on account of difficulties in securing the seventy-two sections of land until 1852, when the Indians refused to remove, setting up a claim against the Government for not removing them sooner and applying for the township on which they were then located to be ceded to them.

This the Government refused to do, but offered them a location in Wisconsin near the Menomonee and Oneida Reservations if they should prefer it to that in Minnesota. In the mean time the moneys that had been paid to them under the treaty by the State of New York had been squandered, the lands allotted to them had been sold, and all the Indians were poor and destitute. This condition of things led to the negotiation of another treaty with these Indians which was concluded February 5, 1856. In the negotiation of this treaty all of the Indians were invited to participate, which they did, four-fifths of the entire population of the tribe signing the treaty.

This treaty, after reciting the several treaties and acts of Congress passed and had prior thereto in relation to the Stockbridge and Munsee tribes of Indians, the constant dissensions that in years past had existed among them, and the avowed object and intention thereof of relieving them from the complicated difficulties by which they were surrounded and establishing comfortably together all such Stockbridges and Munsees wherever located—in Wisconsin, the State of New York, or west of the Mississippi—as were included in the treaty of September 2, 1839 (11 Stats., 557), and desired to remain under the paternal care of the Government of the United States, provides in articles 1, 2, and 3, as follows:

"ARTICLE I. The Stockbridge and Munsee tribes, who were included in the treaty of September third, one thousand eight hundred and thirty-nine, and all the individual members of said tribes, hereby jointly and severally cede and relinquish to the United States all their remaining right and title in the lands at the town of Stockbridge, State of Wisconsin, the seventy-two sections of land in Minnesota set aside for them by the amendment to the treaty of November twenty-fourth, one thousand eight hundred and forty-eight, the twenty thousand dollars stipulated to be paid to them by the said amendment, the sixteen thousand five hundred dollars invested by the United States in stocks for the benefit of the Stockbridge tribe in conformity to Article IX of the said treaty, and all claims *set up by and for the* Stockbridge and Munsee tribes, or by and for the

Munsees separately, or by and for any individuals of the Stockbridge tribe who claim to have been deprived of annuities since the year one thousand eight hundred and forty-three, and all such and other claims set up by or for them or any of them are hereby abrogated, and the United States released and discharged therefrom.

"ARTICLE II. In consideration of such cession and relinquishment by said Stockbridges and Munsees, the United States agree to select as soon as practicable, and to give them a tract of land in the State of Wisconsin, near the southern boundary of the Menomonee Reservation, of sufficient extent to provide for each head of a family and others lots of land of eighty and forty acres as hereinafter provided; every such lot to contain at least one-half of arable land, and to pay, to be expended for improvements for the said Stockbridge and Munsees, as provided in Article IV, the sum of forty-one thousand one hundred dollars, and a further sum of twenty thousand five hundred and fifty dollars to enable them to remove.

"ARTICLE III. As soon as practicable after the selection of the lands set aside for these Indians by the preceding article, the United States shall cause the same to be surveyed into sections, half and quarter sections, to correspond with the public surveys, and the council of the Stockbridges and Munsees shall, under the direction of the superintendent of Indian affairs for the northern superintendency, make a fair and just allotment among the individuals and families of their tribes. Each head of a family shall be entitled to eighty acres of land, and in case his or her family consists of more than four members, if thought expedient by the said council, eighty acres more may be allotted to him or her; each single male person above eighteen years of age shall be entitled to eighty acres; and each female person above eighteen years of age, not belonging to any family, and each orphan child, to forty acres; and sufficient land shall be reserved for the rising generation.

"After the said allotment is made, the persons entitled to land may take immediate possession thereof, and the United States will thenceforth and until the issuing of the patents as hereinafter provided hold the same in trust for such persons, and certificates shall be issued in a suitable form guaranteeing and securing to the holders their possession and an ultimate title to the land; but such certificates shall not be assignable, and shall contain a clause expressly prohibiting the sale or transfer by the holder of the land described therein. After the expiration of ten years, upon the application of the holder of such certificate, made with the consent of the said Stockbridge and Munsee council, and when it shall appear prudent and for his or her welfare, the President of the United States may direct that such restriction on the power of sale shall be withdrawn and a patent issued in the usual form.

"Should any of the heads of families die before the issuing of the certificates or patents herein provided for the same shall issue to their heirs; and if the holder of any such certificate shall die without heirs his or her land shall not revert to the United States, unless on petition of the Stockbridge and Munsee council for the issuing of a new certificate for the land of such deceased person to the holder of any other certificate for land, and on the surrendering to the United States of such other certificate by the holder thereof the President shall direct the issuing of a new certificate for such land; and in like manner new certificates may be given for lots of land, the prior certificates for which have been surrendered by the holders thereof."

It will be observed that by the treaty all of the Stockbridges were recognized as having rights thereunder, and that the so-called Citizen party was recognized as being equally interested with the so-called Indian party in the reservation to which they were removed, and on a part of which they are now located.

It seems from the papers herewith, that Stephen Gardner, whose name appears signed to the treaty of 1856, received an allotment under the third article of that treaty, the west half of the northeast quarter of section 26, township 28, range 14, 80 acres, and that this is the land upon which he is now located, but which was subsequently to its allotment to him reallotted to Sterling Peters under the act of 1871 (16 Stats., 404).

On February 6, 1871, Congress passed an act to provide for the sale of a part of the Stockbridge Reservation and a division of the tribe into two parties, viz, those who desired to become citizens of the United States and those who desired to retain their status as Indians. Section 6 of that act is as follows:

"That, for the purpose of determining the persons who are members of said tribes and the future relation of each to the Government of the United States, there shall be prepared, under the direction of the Commissioner of Indian Affairs, or such person as may be selected by him to superintend the same, two

rolls, one to be denominated the Citizen roll, to embrace the names of all such persons of full age, and their families, as signify their desire to separate their relations with said tribe, and to become citizens of the United States; the other to be denominated the Indian roll, and to embrace the names of all such as desire to retain their tribal character and continue under the care and guardianship of the United States; which said rolls shall be signed by the sachem and councillors of said tribe, certified by the person superintending the same, and returned to the Commissioner of Indiana Affairs; but no person of full age shall be entered upon said Citizen roll without his or her full and free consent, personally given to the person superintending such enrollment; nor shall any person, or his or her decendants, be entered on either of said rolls who may have heretofore separated from said tribe and received allotment of lands under the act of Congress for the relief of the Stockbridge tribe of Indians, of March third, eighteen hundred and forty-three, and amendment of August six, eighteen hundred and forty-six, or under the treaty of February five, eighteen hundred and fifty-six, or who shall not be of Stockbridge or Munsee descent. After the said rolls shall be made and returned as herein provided, the same shall be held as a full surrender and relinquishment on the part of the Citizen party, each and every one of them, of all claims to be thereafter known or considered as members of said tribe, or in any manner interested in any provision heretofore or hereafter to be made by any treaty of law of the United States for the benefit of said tribes, and they and their decendants shall thenceforth be admitted to all the rights and privileges of citizens of the United States."

The rolls provided for in this act were prepared in accordance therewith by H. R. Wells, who was appointed a special commissioner for the purpose. The Citizen roll contained 138 names, while the Indian roll contained 112 names. There were about 140 of the Stockbridges and Munsees who were interested in the treaty of 1856, who were excluded from enrollment on either of said rolls, in accordance with the provisions of the law. Of this number it seems that Stephen Gardner, in whose behalf the affidavits and brief, herewith, are submitted, was one.

By letter of February 23, 1891, which was referred to this office for report, the President's private secretary transmitted, with other bills, for report as to whether any objections to its approval are known to exist, enrolled Senate bill 712, "An act for the relief of the Stockbridge tribe of Indians in the State of Wisconsin." This bill provided for allotments of lands to the Stockbridges and Munsees located on their reservation and entitled thereto under the act of 1871, for the patenting of the lands in fee simple to them, and the appraisal and sale of the remainder, but the rights of the party which is now known as the "Old Citizen party," in contradistinction to the Citizen party under the act of 1871, if they had any, were entirely ignored and no provision was made for the adjudication of their claim to such rights.

In office report of February 27, 1891, thereon the complications existing as to the affairs of the Stockbridge and Munsee tribe were briefly set out as above, and the following recapitulation of the situation was submitted:

"(1) That if any member of the Stockbridge tribe became a citizen of the United States under the law of 1843, all of the members of that tribe became citizens of the United States. Under the statute the entire tribe must have become citizens, or none of the members of that tribe would have become citizens.

"(2) That the act of 1846 left the tribe in the same status that it was prior to the passage of the act; none of the Stockbridges accepting citizenship under the provisions of the act.

"(3) That this being true the treaty of 1848 could not abrogate the rights of any member of the tribe.

"(4) That the rights of the entire tribe were recognized in the treaty of 1856, and four-fifths of the entire tribe signed said treaty.

"(5) That as the reservation on which the Indians are now located was given them by virtue of the treaty of 1856, each and every member of the tribe had an equal undivided interest in the same.

"(6) That the act of 1871 unjustly excluded from the benefits of the common property of the Stockbridge tribe certain members thereof."

The bill referred to was not approved by the President, and so it did not become a law, and the further complication of this matter was prevented. Whatever relief, if any, the so-called Old Citizen party, the party to which Stephen Gardner belongs, may be entitled to, must come through the action of Congress. The executive department has not the power to interfere with the execution of the law of 1871, and therefore Congress must act in the premises before the wrong which appears to have been done can be righted.

I am in receipt of a letter of January 27, 1892, from Hon. Thomas Lynch, inclosing a bill (H. R. 3594) entitled "A bill for the relief of the Stockbridge and Munsee tribe of Indians in the State of Wisconsin." This bill was introduced by Mr. Lynch, and has for its purpose the settlement of the controversies and dissensions existing between the different parties of the Stockbridge Indians as above set forth, and he asks for a report from this office on the bill.

It proposes to provide that all persons who were actual members of the said tribe of Indians at the time of the execution of the treaty of 1856, and their descendants, and all persons who became members of the tribe under the provisions of article 6 of said treaty, and have not since separated themselves from the tribe, are hereby declared members of said tribe and entitled to share in former tribal funds, and that all members who entered into possession of lands under the allotments of 1856 and 1871, and have resided on said lands continuously since, are hereby declared to be owners of such land in fee simple in severalty, and that the Government shall issue patents to them therefor. In section 2 it provides that the Secretary of the Interior, without unnecessary delay, shall cause to be taken an enrollment of the tribe on the basis of the provisions of this act, the enrollment to be filed, a copy in the Department of the Interior and a copy in the records of the tribe.

In view of the foregoing statement of the condition of affairs among the Stockbridge and Munsee Indians, and in view of the facts contained in the affidavits and brief herewith inclosed, as to the right of Stephen Gardner, whose case, as I have already said, is made a test case, to remain on the lands now occupied by him, and in view of the fact that Mr. Lynch has introduced a bill in Congress which contemplates confirming to the allottees under the treaty of 1856 all the land allotted and now occupied by them, I have the honor to submit the matter for your consideration and for instruction as to whether the suspension of the order for removal of August 31, 1891, shall be made permanent.

A report on Mr. Lynch's bill, H. R. 3594, will be submitted to you at an early date.

The return of the accompanying papers to the files of this office is respectfully requested.

Very respectfully,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

The Stockbridge and Munsee tribe of Indians in the State of Wisconsin, beneficiaries under the treaty concluded with the United States of America at Stockbridge, in the State of Wisconsin, February 5, 1856, *vs.* United States.

PETITION.

The petition of the Stockbridge and Munsee tribe of Indians in the State of Wisconsin respectfully represents:

That they were parties to the treaty concluded with the United States on the 5th day of February, 1856, at Stockbridge, in the State of Wisconsin, and that they file this petition in accordance with the request of the honorable Commissioner of Indian Affairs.

(2) That on the 8th day of February, 1831, and by the Senate amendment to the treaty with the Menomonees (7 Stats., pp. 342, 406) two townships of land on the east side of Lake Winnebago, in Wisconsin, were secured by the United States for the use of the Stockbridge and Munsee tribe of Indians.

(3) That on the 3d of September, 1839, the United States purchased by treaty the east half of the two townships of land, and a portion of the tribe obligated itself to move west of the Mississippi (Stats., vol. 7, p. 580), and was paid their proportionate share "as a full compensation for all their interest in the lands held by the party who remains as well as in the lands hereby ceded to the United States."

A few years afterwards a number of these Indians returned back to the tribe, and were told "that they could remain with the tribe until a treaty could be made, whereby provisions would be made to bring them back into the tribe again."

(4) That dissension still continued to exist in the tribe; another party arose who were desirous of becoming "citizens of the United States," and, having their lands allotted, accordingly a petition was presented to Congress by a

minority of the tribe, "praying that Congress might pass a law to make the Stockbridge Indians citizens of the United States."

The advocates of this measure were called the "Citizen party," and those who opposed it were called the "Indian party."

(5) That the prayer of the petition was granted, and on March 3, 1843, the Stockbridge Indians (but not Munsees) were declared citizens of the United States after the performances of certain formalities. (Stats., vol. 5, p. 645.)

The first section of this act authorized the lands of the Stockbridges to be patented and divided among the different individuals composing the tribe and the holding of these lands by them separately and severally in "fee simple."

The second section provides that commissioners are to make a just and fair partition and division of the lands among the members of the said tribe in accordance to the laws, customs, and regulations of the said tribe, in such manner as shall be consistent with equity and justice.

The third section provides for the election of five commissioners from the individuals of the tribe by a majority of the whole number of such voters then present.

The fourth section provides for the allotment and division of the land: similar, indeed almost identical, provisions to the preceding sections for allotments of land.

The fifth section provides for the return of the report of the commissioners, and in which appeals shall be received from the allotments.

The sixth section provides for the return of copies of the report of the commissioners, and that the President of the United States shall cause patents to be issued to the several individuals named in the report of the lands so apportioned, and to hold the said lands "in fee simple to themselves, their heirs and assigns."

The seventh section directs the return of the report and maps to the President, and confers the right of citizenship on the Stockbridge Indians.

And there is also a proviso "that nothing in this act contained shall be so construed to deprive them of their rights to any annuity now due them from the State of New York or the United States, but they shall be entitled to receive any such annuity in the same manner as though this act had not been passed."

This act was fully complied with on part of the Stockbridge Indians, and the land was allotted. (Rep. Com. of Allotment, August 24, 1843, in Gen. Land Office, Ex. Doc. No. 1, Thirtieth Congress, first session, pp. 742, 775, 778, 781, 789, 790, 797, 798, 804 to 810, inclusive; also, Rep. Com. 1854, pp. 38–9; also, H. R. Mis. Doc. No. 14, p. 2, Forty-sixth Congress, third session). But on the part of the Government it was not carried out; patents remained to be issued to the several persons to whom lands had been set off in conformity with law (H. R. No. 447, pp. 3–15, Twenty-ninth Congress, first session).

Much discontent arose on account of the passage and carrying out this act, a portion of the tribe utterly refusing to acknowledge obedience to its provisions and insisting upon the maintenance of their tribal government. It appeared that the majority of the tribe did not ask for the act, "and that it was forced upon them." Many of the older and influential men, who had previously borne an important part in the management of their affairs, besought the Department at Washington and succeeded in preventing the issue of patents, and in 1846 by their appeal to Congress procured a total repeal of the act declaring them citizens of the United States (Stat., vol. 9, p. 55).

(6) That the said Stockbridge tribe of Indians was restored to their ancient form of government with all powers, rights, and privileges held and exercised by them under their customs and usages as fully and completely as though the above act (1843) had not been passed.

The spirit, letter, and intent of the committee who reported the bill "believe that the ends of justice would be subserved and the quiet and happiness of the Stockbridges secured, by a total repeal of the act of 1843, and a restoration of the tribe to their ancient form of government, and in order that those dissatisfied spirits who wish to desert their nation and become citizens of the United States may be left without ground of complaint, a provision is inserted in the bill, by which the governor of Wisconsin is authorized to enroll the names of those becoming citizens, so that if a division of the tribe becomes inevitable they may be so separated and divided, territorially, as not to interfere with each other." (Rep. 447, p. 4.)

The first section of this act repealed the act of 1843 in toto.

The second section provided for the enrollment of the names of such persons of the *Stockbridge tribe of Indians* as shall desire to become and remain citizens

of the United States, and the division of the land into two districts, viz: "Indian district" and "Citizen district." The lands in the "Indian district" are to remain and to be held in common; those in the "Citizen district" are to be divided; and to each Indian who becomes a citizen the subagent shall assign his ratable proportion of land, and patents may be issued to the individual reservee who becomes a citizen, a title "in fee simple" shall vest in the patentee; "*Provided, however*, That those Indians who become citizens shall forfeit all rights to receive any portion of the annuity which may be or may become due the nation of the Stockbridges by virtue of any treaty heretofore entered into by this Government with said Stockbridges."

The third section provides for the settlement of claims, and nothing in the act shall be so construed to impair any claim against the Delaware Nation which the Stockbridges may have.

(7) That there is no evidence of record either in the General Land Office, or the Office of Indian Affairs, of this act ever being carried out, so no member of the tribe ever became a citizen under it; therefore forfeited no rights under said act. (Rep. "F" of Dec. 23, 1846, Ex. Doc. No. 1, pp. 770-'1, 773-'9, Thirtieth Congress, first session., Rep. Com., 1854, p. 39, Rep. Com. Gen. Land Office of Apr. 18, 1855; also letter of July 17, 1882, marked D; also letter of Com. Ind. Aff'rs, marked L 13008, 1882, H. R. Mis. Doc. No. 14, p. 2, Forty-sixth Congress, third session.)

It was found impracticable to carry this act into full effect, as it required an arbitrary division of the reservation into districts, which would deprive many of their improvements and impose an absolute forfeiture of all annuities and other claims upon the Government, reserved to them by the former act of 1843.

Therefore, in order to relieve both parties from their embarrassments and to secure to each their just rights, it was claimed the treaty of November 24, 1848, was made. (Stat., vol. 9, p. 955.)

(8) That this treaty was made with what was called the "Indian party" is admitted in a memorial to Congress by the sachem and councillors of the Stockbridge and Munsee tribe of Indians, p. 3, 4, copy E with Inspector Kemble's report 12, November, 1877, Exhibit F to report proper, and their statement (A) accompanying the same.

By the fourth article of the treaty it requires patent to issue to those "who become citizens of the United States," a list of whom is given, when in fact none had become "citizens," therefore no patents were to issue. But the acts of Congress and the treaty of 1848 attempted to accomplish a complete disintegration of the former tribe, and provided that none except such as were then enrolled as Indians should be afterwards recognized as members of the tribe or in any manner dealt with as such.

(9) That while the claims of the "Indian party" were fully adjusted by the treaty of 1848, those of the "Citizen party" to former annuities were not and have not since been fully provided for. They also had a right to a proportionate remuneration for lands of which the tribe were deprived by treaties with the Miamy and Delawares and other lands in Wisconsin of which they were deprived of by treaties with the Winnebagoes and Menomonees. No annuities have been paid them since 1843, nor have any other of their just demands been adjusted in any manner, except by the settlement in the treaty of 1856, in which the "Citizen party" participated, all of which is more fully set forth in the report of E. C. Kemble, of November 12, 1877.

A careful examination of all the facts and circumstances connected with the treaty of 1848 warrants the conclusion that it was an attempted fraud upon both parties.

(10) That on the 3d March, 1855, the general Indian appropriation bill was passed (Stats., vol. 10, p. 699) "for the purpose of enabling the President to treat with and arrange the difficulties among the Stockbridge and Munsee Indians, arising out of the acts of Congress of March 3, 1843, and August 6, 1846, and under the treaty of November 24, 1848."

(11) That on June 1, 1855, a treaty was made with the Stockbridge and Munsee tribe of Indians, but was not approved by the Department, and was referred back to the Commissioner, who thereupon instructed the superintendent "that arrangements ought therefore to be made at once to provide them with a home * * * and it should be a home alike for the Stockbridges, whether known as 'citizens' or 'Indians,' and the Munsees, parties to the treaty of September 3, 1839, wherever they may now be, or for such of them as will remove to such new home within the limited time." (See instruction of Commissioner to superintendent of January 7, 1856.)

(12) That under these instructions a treaty was made on February 5, 1856 (11 Stats., p. 663), with the Stockbridge and Munsee Indians. This treaty was made to settle the complicated difficulties "by which the tribe was surrounded," to establish comfortably together all such of the Stockbridges and Munsees wherever they may be located.

By the first article, "the Stockbridge and Munsee tribes who were included in the treaty of September 3, 1839, and all the individual members of said tribes, hereby jointly and severally cede and relinquish to the United States all their remaining right and title in the lands at the town of Stockbridge and State of Wisconsin, the 72 sections of land in Minnesota, the $20,000, the $16,500 invested by the United States, and all claims set up by and for the Stockbridge and Munsee tribes, or for the Munsees separately, or by any individual of the Stockbridge tribe who claims to have been deprived of annuities since the year 1843, and other claims, are hereby abrogated and the United States are hereby released or discharged therefrom."

By the second article, in consideration of such cession and relinquishment of the Stockbridges and Munsees, the United States agrees to select as soon as practicable and to give them a tract of land in the State of Wisconsin near the southern boundary of the Menomonee Reservation, of sufficient extent to provide for each head of a family, and other lots of land of 80 and 40 acres, and to pay, to be expended for improvements for the Stockbridge and Munsees, as provided for in article 4, the sum of $41,100, and the further sum of $20,550 to enable them to remove, and by amendment $18,000, $12,000 for the Stockbridges and $6,000 for the Munsees, to be expended in such manner as may be prescribed by the Secretary of the Interior, etc.

The third article provides for the survey of such tract and the allotment therein provided, for immediate possession thereafter by the allottee, and for issue of nonassignable certificates and the issue of patents after the expiration of ten years.

Should any of the heads of the families die before the issuing of the certificate or patent the same shall issue to their heirs and land shall revert to the United States.

Article 5 provides the persons to be included in the apportionment of the land and money to be divided and expended under the provisions of this agreement shall be such only as are actual members of the said Stockbridge and Munsee tribes, a roll or census of whom shall be taken and appended to this agreement, "their heirs and legal representatives, and hereafter the adoption of any individual amongst them shall be null and void, except it be first approved by the Commissioner of Indian Affairs."

By article 6 it provides those members of the Stockbridge tribe who emigrated in 1839, the Stockbridges and Munsees agree to receive them as brothers, "*Provided*, That none of the said Stockbridges or Munsees shall be entitled to any of these lands or the money stipulated to be expended under these articles unless they remove to the new location within two years from the ratification hereof."

By article 16 provides for the issue of patents to certain persons in full of all claims and demand whatsoever in lands, moneys, or annuities of the Stockbridge tribe of Indians.

(13) That by article 17 "so much of the treaties of September 3, 1839, and of November 24, 1848, as is in contravention or in conflict with the stipulation of this agreement is hereby abrogated and annulled."

By article 18 this instrument shall be binding upon the contracting parties whenever the same shall be ratified by the President and the Senate of the United States.

(14) That the treaty was accepted by the Stockbridge and Munsee tribes as a settlement of former "difficulties," and was ratified by the Senate April 18, 1856, and approved by the President of the United States September 8, 1856.

(15) That on the 11th of February, 1856, a treaty was made with the Menomonees by the United States, two townships of land was purchased for the express purpose of locating thereon "the Stockbridges and Munsee Indians" (11 Stats., p. 679). This treaty was proclaimed April 24, 1856.

(16) That about 409 removed under the appropriation of the second article of the treaty to their new homes, and the guaranty of the third article of the treaty, to hold the same in trust for such persons, securing their possessions and ultimate title to the land, has not been carried out.

(17) That a treaty between the United States and the Stockbridge and Munsee tribe of Indians, was concluded in the city of Washington, D. C., on the 15th of

February, 1867, though not ratified. According to the rolls of said treaty the tribes numbered 392.

(18) That on the 6th of February, 1871, an act of Congress was passed entitled "An act for the relief of the Stockbridge and Munsee tribes of Indians in the State of Wisconsin" (Stat., vol. 16, p. 404).

By the first section provides for the appraisement of the land and the value of improvements, and the name and owners of such improvement.

By the second section provides for the manner in which said lands should be advertised and sold on the reservation, of 18 sections, subject to allotment to members of Indian party.

By the third section provides for the payment of expenses of appraisals and sale, the amount due to individuals for improvements, amount of debts, amounting to the sum of $11,000.

By the fourth section provides a statement, exhibiting the gross amount of money realized from the sale of the two townships of land, after deducting therefrom the sums appropriated by the preceding sections, the value of the land remaining unsold, estimating it at 60 cents per acre; also the $6,000 held in trust by the Government, and shall constitute the entire amount due the tribe from the Government.

By the fifth section provides the sums of money shall be divided between the Citizens and Indian party, in proportion to the number of each, according to rolls thereof made and returned in conformity with the provisions of this act to Commissioner of Indian Affairs, the Citizens party shall be divided per capita, the Indian party's share shall be placed to their credit on the books of the Treasurer of the United States, and bear interest at 5 per cent per annum.

By section 6 provides, for the purposes of determining who are members of the tribe, two rolls shall be made, one shall be called the "Citizen rolls," to embrace those who become citizens, the other "Indian roll," to embrace the names of such as desire to retain their tribal character and continue under the guardianship of the United States.

"But no person of full age shall be entered upon said Citizen roll without his or her full and free consent, personally given to the person superintending such enrollment. Nor shall any person, or his or her descendants, be entered upon either of said rolls who may have heretofore separated from said tribe and received allotment of lands under the act of Congress for the relief of the Stockbridge tribe of Indians of March 3, 1843, and amendment of August 6, 1846, or under the treaty of February 5, 1856, or who shall not be of Stockbridge or Munsee descent."

By section 7 provides that "after the said rolls shall be made and returned, the said Indian party shall be known as the Stockbridge tribe of Indians."

The remaining sections are devoted to provisions for allotments of the land, etc.

(19) That on the 24th March, 1874, H. R. Wells was appointed as a special commissioner to complete the rolls provided by the act, and on the 8th of April made his report. The rolls submitted by him contained the names of 138 Stockbridge and Munsee Indians who wished to become Citizens and 112 who wished to retain their tribal relations, leaving about 142 to yet be enrolled in accordance with their previous enumeration, though there is an increase since then.

(20) In violation of the provisions of the treaty of February 5, 1856, a large portion of the tribe are deprived of their rights. The land thereby granted to the Stockbridge and Munsee Indians have been sold by the United States, and the proceeds of the sale paid into the Treasury of the United States.

(21) That for many years the Stockbridge and Munsee Indians have sought to obtain compensation for the lands thus illegally appropriated by the United States, but have failed to do so.

(22) That the Stockbridge and Munsee tribes of Indians have several times applied to Congress of the United States for relief in the premises, notably to the Forty-fourth, Forty-seventh, Forty-eighth, and Fiftieth Congresses, and the executive branch of the Government upon the the subject, to whose various reports your petitioners beg leave to refer, and especially to report of the Hon. J. D. C. Atkins, Commissioner of Indians Affairs, in response to the call of the Senate Committee on Indian Affairs, under date of April 27, 1888, and the report of Edward Kemble, of November 12, 1877; also the report of Robert S. Gardner, of November 16, 1886, and that of Special Agent William Parsons, of January 16, 1888.

(23) It is claimed on behalf of the Stockbridge and Munsee Indians that their interest in the reservation was equal to those who were enrolled; therefore they

are entitled to be enrolled likewise, as they never separated from the tribe, but have continuously resided with the tribe ever since the making of the treaty of February 5, 1856, nor have they become citizens since the repeal of the act of March 3, 1843.

(24) That these petitioners claim they had lands allotted to them by the treaty of February 5, 1856, under the third article, and that the same is duly recorded in a book of allotments made at that time, and that they have continuously resided upon the same in peace until 1871, at which time an act of Congress was passed providing for the sale of the reservation and the enrollment of the tribes.

(25) That they claim the enrollment made by H. R. Wells was unfair in the extreme, and that it was not made in accordance with the act of 1871.

(26) That they claim they were not enrolled under the act of February 6, 1871, nor have they since been enrolled, nor have they received any allotment of land under said act.

(27) That they claim Stephen Gardner had land allotted to him under the treaty of 1856, more fully described in the affidavits herewith, and that the same was allotted to Sterling Peters under the act of 1871, and that the said Peters's father separated from the tribe in accordance with the second article of the treaty of September 3, 1839, and received his full share of tribal property (Rev. Ind. Treat., p. 940, line 41890); as to which stands before the tribe and is best entitled to consideration it does not require much acumen to discover.

(28) That these petitioners claim they are justly entitled to the amount claimed in this petition, after allowing all just credits and offsets, and in support of the equity of their claim beg leave to cite the following authorities:

TREATIES.

"All treaties made, or which shall be made, under the authority of the United States shall be the supreme law of the land." (Art. 6, Const.)

"No obligation of any treaty lawfully made and ratified shall be hereby invalidated or impaired." (Sec. 2079, R. S., p. 366.)

"Congress has no constitutional right to interfere with rights under a treaty, except in cases purely political." (Holden *vs.* Joy, 17 Wall., 247; Wilson *vs.* Hull, 6 Wall., 89.)

"If the title passed by the treaty of 1856 there were no restrictions upon it.

"That a treaty after being executed and ratified by the proper authorities becomes the supreme law of the land, and the courts can not go back of it for the purpose of annulling it." (1 Cranch, 103; 6 Pet., 735; 10 How., 442; 2 Pet., 307; 309, 314; Story Const. Law, p. 695.)

LAW.

"No State shall pass any law impairing the obligation of contracts." (Art. 1, sec. 10, Const.)

"No *ex post facto* laws shall be passed." (Art. 1, sec. 9, Const.)

"Nor shall any person be deprived of life, liberty, or property, without due process of law." (5th Amend. Const.)

PROPERTY.

"Nor shall private property be taken for public use without just compensation." (5th Amend. Const.)

RIGHTS.

"The United States can rightfully make no treaty with a tribe of Indians which will deprive any member of such tribe of lawful right without just compensation." (11 O. A. G., 145-6)

"There is no authority of law by which they can be dispossessed or deprived of their legal rights and interests in the common estate of said tribe without their consent." (6 O. A. G., 148 and 663-4; sec. 6, Const. of the U. S.)

"Could the Government acquire any rights or interests in their lands without making them party to the treaty ?" (1 Story's Equity Jurisprudence, sec. 222.)

TITLE.

"The nature of the Indian title to lands lying within the territorial limits of a State is entitled to be respected by all courts until it be legitimately extinguished." (6 Cranch, Rep. 87.)

"It is the duty of the Government to protect the Indian in the possession of

their lands, but he is deemed incapable of transferring the title to any other than the sovereigns of the country." (1 Kent Com., No. 258, 381, sub. 4; 9 Peters, U. S. Rep., 760.)

"The Government can only extinguish the Indian title by purchase and conquest." (1 Kent Com., No. 258.) "No title is valid which is not followed by occupation." (Vattel Bio. 18, sec. 207, 208; Hartin Pixces, p. 3; Greenheu's His. Oregon, Cal., 4th ed., 202.)

"The title which they might acquire by occupancy was a base, qualified, or determinable fee, with only the possibility of reversion and not the right of reversion in the United States, and therefore all the estate is in the Indians." (See decision of the United States district court for the western district of Arkansas, May term, 1879, United States *vs.* Reese, vol. 8, p. 453, Central Law Journal.)

Their lands have been sold by the Government in violation of the pledge of the treaty. These Indians are, in the language of the Supreme Court, the wards of the Government and as such *they now appeal* to their guardians to turn over to them the proceeds of their own estate.

Law and *equity* alike *demand* that their *appeal should now be heard*, and the *relief prayed* for *granted.*

J. C. ADAMS,
In behalf of the Stockbridge and Munsee tribe of Indians.

UNITED STATES INDIAN SERVICE, GREEN BAY AGENCY, WIS.,
Keshena, January 29, 1892.

SIR: Herewith are forwarded certain affidavits relating to allotment rights on Stockbridge Reservation, together with statement of J. C. Adams, an attorney for some alleged Stockbridge Indians.

Very respectfully,

CHAS. S. KELSEY,
United States Indian Agent.

Hon. COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

STATE OF WISCONSIN, *County of Shawano, ss:*

Personally came before me Martin D. Aaron, who being duly sworn, deposes and says: That he is 35 years old, am a Stockbridge Indian, and was enrolled under the act of Feb'y 6th, 1871, on the Indian roll. That I am well acquainted with Stephen Gardner and others who were not enrolled under the act of 1871, and that they were justly entitled to be enrolled as they were signers of the treaty of Feb'y 5, 1856, and that the said Stephen Gardner had lands allotted to him under the said treaty (see Rev. Treat. p. 951) in accordance to article 3rd of said treaty, and that he has continuously resided upon the land ever since, and made improvements on the same to the amount of about 35 acres, and that he has no other homestead, and that he has always been recognized as a member of the tribe up to the passage of the act of 1871—drawing tribal funds, holding offices, and voting at all tribal elections, and in every way being recognized as a member of the Stockbridge and Munsee tribe.

MARTIN AARON.

Sworn and subscribed before me this 12th day of Dec., 1891.
[SEAL.] AUGUST G. SCHMIDT,
Notary Public.

(On file at Pension Dept., Washington, D. C.)

STATE OF WISCONSIN, *County of Shawano, ss:*

Personally appeared before me, John Yoccum, who, being first duly sworn, deposes and says: That I am 73 years old; am a Stockbridge Indian, and was enrolled under the act of Feb'y 6, 1871; am well acquainted with Stephen Gardner, and know that his name appears upon the treaty of Feb'y 5, 1856; that he had *lands* allotted to him on the reservation of the Stockbridges in accordance to *article* 3rd of the treaty, to wit: W. ½ of NE. ¼ of sec. 26, T. 28, R. 14; No. of

acres, 80; and that the same was entered October 28th, 1856, and the said Gardner has resided upon the land continuously ever since the making of the treaty, and that he has no other homestead; that he has made improvement on the same to the amount of about thirty-five acres, and that he has always been recognized as a member of the tribe up to the passage of the act of 1871; that he has held offices in the tribe, voted at their elections, drew tribal funds, and enjoyed all the privileges of the tribe, and that he was entitled to be enrolled as a member of the said tribe, and at the enrollment made by Special Commissioner Wells in 1874 certain parties were enrolled who were not entitled to the same, as the law prohibited them, while others were not allowed to be enrolled, who had the same status as those enrolled, though their names appeared upon the rolls of the treaty of Feb'y 5, 1856, in conformity to article 5th, and they also had lands allotted to them under the 3rd article of said treaty; and further this deponent sayeth not.

JOHN (his x mark) YOCCUM.

Sworn and subscribed before me this 12 day of Dec., 1891.
[SEAL.] AUGUST G. SCHMIDT,
Notary Public.

(On file at Pension Dept., Washington, D. C.)

Witness to mark,
MARTIN AARON.

STATE OF WISCONSIN, *County of Shawano, ss:*

Personally came before me, George T. Bennett, who deposes and says: That I am sixty-eight years old, and a Stockbridge Indian, and was one of the members of the tribe that moved from the State of New York, in the year 1829, with his parents in connection with others of the Stockbridge Indians, and have in every instance participated in all the benefits accruing to the said tribe, both in money and land; that my rights were recognized by all parties in the treaty of Sept. 3rd, 1839, in the division of the property of said tribe made by that treaty and my share retained in Calumet County, Wis., with the main portion of the above tribe, and that from the treaty of 1829 my rights has always been respected by the Government and the Stockbridge Indians until the Quinney or Indian party faction arose after the act of March 3rd, 1843, and 1846, and the treaty of November 24th, 1848, and notwithstanding the effort of these treaties to set my rights aside, I believe that I am a full member of the tribe, which belief was confirmed by the treaty of settlement made by the Stockbridge and Munsee tribe of Indians and the Government of the United States by the treaty of Feb'y 5, 1856.

That in accordance with the stipulations of the treaty I received my allotment of land under this treaty, viz: E. ½, NE. ¼ of Sec. 28, township 28, range 15, 80 acres; W. ½ of NW. ¼, Sec. 35, T. 28, R. 14, 80 acres. Entered June 3rd, 1857, and March 5, 1858; that I built a good dwelling house on one of these lots and during my absence off to work, Samuel Miller tore down said house and moved the same away on a lot that he occupied (Miller) on the reservation. That I was one of the delegates sent to examine or explore the country of the new reservation under the treaty of 1856 and was also present when the reservation was purchased from the Menomonees Feb'y 11, 1856, and that I opposed it on account of its location and on account of the "Pine Ring" and the rigors of the climate, and that I was present at the making of the enrollment of the tribe under the act of Feb'y 6, 1871, by Commissioner H. R. Wells, and that he refused to enroll all those persons who were not parties to the treaty of Nov. 24th, 1848, which treaty was abrogated by the 17th article of the treaty of Feb. 5, 1856, and was of noneffect.

That Mr. Wells admitted to me "that the whole proceedings were unjust, and that the 'headmen' were the greatest set of villains that ever went unhung." That I am well acquainted with Stephen Gardner, and that he had land allotted to him under the treaty of February 5, 1856, to wit: W. ½ NE. ¼, sec. 26, T. 28, R. 14, number of acres 80; and that the same was duly entered October 28, 1856, and is recorded in the book of allottments made under the treaty; that the said Gardner has continuously resided upon the land, except the time he was in the United States service as a soldier, and that he has made improvements upon the same to the amount of about 35 acres, and that he has a good dwelling-house and other buildings on the place, and that he has no other homestead; that he occupies the same land that he first entered.

That the said Gardner's name appears upon the rolls in accordance to article 5th of said treaty, which says: "The persons to be included in the apportionment of the land and money to be divided and expended under the provisions of this agreement shall be such only as are actual members of the said Stockbridge and Munsee tribes (a roll or census of whom shall be taken and appended to this agreement), and their heirs and legal representatives;" that after the expiration of ten years this deponent asked to have the patent to his allotment issued to him; but I was refused, having fulfilled the condition of the treaty on my part, and it only remained for the Government to fulfill the condition of its contract, and think we should not be held liable for the neglect of the Government to issue the patents. Further this deponent sayeth not.

GEORGE T. BENNETT.

Sworn before me this 16 day of Dec., 1891.
[SEAL.]

AUGUST G. SCHMIDT,
Notary Public for Shawano Co., Wis.

(On file at Washington, D. C., at Pension Dept.)

Witness:
F. SEYMEN.

STATE OF WISCONSIN, *County of Shawano, ss:*

Personally appeared before me Stephen Gardner, who being duly sworn, deposes and says: That I am 65 years old; am a Stockbridge Indian; am not enrolled upon either of the rolls. Have always lived with the tribe, mingled and contributed my property with the tribe, thereby greatly enhancing its value, and that I have drawn provisions, tribal funds, voted at their elections, held office in the tribe, and in every way being recognized as a member of the tribe. I am a signer of the treaty of Feby. 5th, 1856, and my name so appears upon the rolls. (Rev. Ind. Treat., p. 959, line 42720); that I have land allotted to me under the 3rd art. of the treaty, to wit: W. ½ NE. ¼, sec. 26, T. 28, R. 14, recorded Oct. 28th, 1856, in the book of allotments made under the treaty of 1856; that I have resided continuously upon the place ever since it has been allotted to me, with the exception of my service in the U. S. A., that I was mustered in on the 9th day of Aug., 1862, and remained until I received an honorable discharge, the 12th day of June, 1865, and that I left my money with State Treasurer Samuel D. Hasting until I returned home, which I expended in making improvements upon the place, and that I also expended a portion of the money on the place, and that I received under the act of 1871 and from my improvement at Stockbridge, Calumet Co., and that I have about 35 acres improvements on the place, besides a frame dwelling-house and a barn and other buildings, and that I have no other homestead, and that I never complied with the act of March 3rd, 1843, inasmuch as the act never was carried out; patents were never issued under this act (Rep. 447, H. R., 29th Cong., 1st sess., p. 15), but on Aug. 6, 1846, this act was repealed, and the restoration of the tribe to its ancient form of government (9 Stat., 55) was effected, and that I still occupy the same land I entered on the 28th day of October, 1856.

That I was present at the enrollment made by Special Commissioner H. R. Wells, and was not allowed to enroll, and that I have not had the opportunity of enrolling since. Nor have I had the opportunity to apply for my allotment under the act of 1871. That the reason alleged for not enrolling me was that I had become a citizen under the act of March 3rd, 1843, and that I had received allotments of land under the act of 1843, which apply with equal force to those enrolled, and that I verily believe the reason for not enrolling me was that I would not enter into a contract or a money consideration to have my name placed upon the rolls. (See my affidavit of Aug. 20, 1887, before Wm. Parsons, U. S. Indian Special Agent on file in Dept. of Ind. Affairs.) Further this deponent sayeth not.

STEPHEN GARDNER.

Sworn before me this 16 day of December, 1891.
[SEAL.]

AUGUST G. SCHMIDT,
Notary Public, Shawano Co., Wis.

(On file at Pension Dept., Washington, D. C.)

Witness:
F. SEYMEN.

STATE OF WISCONSIN, SHAWANO COUNTY,
Office of the Clerk of the Circuit Court, ss:

I, C. A. Raisler, Clerk of the Circuit Court of the county of Shawano, in the State of Wisconsin, the said court being a court of record, and having a seal. do hereby certify that Aug. G. Schmidt, esquire, whose name appears subscribed to the annexed instrument, was, at the date thereof, a notary public within and for said State, residing in said county, duly appointed and qualified, and empowered by the laws of said State to administer oaths, take acknowledgments of deeds, and perform such other duties as by the law of nations or according to commercial usage may be performed by notaries public; and that to his acts and attestations, as such full faith and credit are and ought to be given, in court and out. I further certify that I verily believe said signature purporting to be his, is genuine; that the seal thereto attached is a correct impression of his official seal; and that said instrument is executed and acknowledged according to the laws of said State.

In witness whereof, I have hereunto set my hand and affixed the seal of said court, at the city of Shawano, in said county and State, on this 21st day of December A. D. 1891.

[SEAL.] C. A. RAISLER,
Clerk of Circuit Court, as aforesaid.

I, Joseph Ganthier, United States Indian interpreter for the Green Bay Agency, do hereby certify that I am acquainted with Stephen Gardner, of the Stockbridge and Munsee tribe of Indians, and that he had land allotted to him under the treaty of February 5, 1856, and that the same was duly recorded in a book of allotments also placed upon the map of the reservation, and this map was hung up on side of the wall in the office of the agency at Keshena, so that it could be referred to when any one entered land who was a member of the said tribe, and, to my knowledge and belief, all the excluded party were at that time recognized as members of the said tribe, and those who were old enough or head of a family had land allotted to them in accordance to the said treaty, and that they have ever since resided upon the said land, and made improvements upon the same. I have also been upon the said land to appraise the said improvements before they were paid for. I was interpreter at that time, and that they have no other homestead except this land.

JOSEPH GANTHIER.

KESHENA, WIS., *Dec. 21, 1891.*

Personally appeared before me, Joseph Ganthier, and acknowledged the above signature to be his free act.

CHAS. S. KELSEY,
U. S. Ind. Agent.

DEC. 2ND, 1891.

STATE OF WISCONSIN, *Langlade County, ss:*

J. C. Adams, being first duly sworn, deposes and says:

I have carefully examined the original town records of the allotment of land to the Stockbridge and Munsee Indians, and that page 11, hereunto attached, is a correct copy of line numbered one, two, three, four, and five, and line numbered twenty-seven on page eleven of said original town record, and that said attached copy was made by me from said original record.

J. C. ADAMS.

Subscribed and sworn to before me this 25th day of March, A. D. 1892.

[SEAL.] F. J. FINUCANE,
Notary Public in and for Langlade Co., Wis.

STATE OF WISCONSIN, *County of Langlade, ss:*

I, T. H. Ward, clerk of the circuit court of the county and State aforesaid, do hereby certify that F. J. Fincane is, and was at the time of taking the within affidavit, a notary public, duly appointed and qualified; and believe that his signa-

ture within written is genuine, and that he is authorized to administer oaths and take acknowledgments of paper according to the laws of Wisconsin.

Given under my hand and the seal of said court, this 25th day of January, A. D. 1892.

[SEAL.] T. H. WARD,
Clerk of Circuit Court in and for Langlade County, Wisconsin.

"*Record of lots entered by individuals of the Stockbridge and Munsee tribes of Indians in conformity to article 3rd, Treaty February 5th, 1856.*"

Date.	Names of persons.	Description.	Sec.	T.	R.	No. acres.	Remarks.
1856. Oct.	* * *	* *	26	28	14	80	Head of family.
28	Stephen Gardner	W. ½ NE. ¼	"	"	"	"	"

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 559.

EXECUTION OF DECLARATIONS IN PENSION CLAIMS.

MARCH 7, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. CURTIS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2713.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2713) "in relation to the execution of declarations and other papers in pension claims," submit the following report:

The object of this bill is to codify, simplify, and amend existing laws relative to the execution of papers in pension claims. Under previous laws it has been necessary in certain cases that the "declaration" for pension should be executed before a court of record, or some officer thereof having custody of the seal, and because of this requirement, certain claimants who had executed an application before a notary public or other officer, were obliged to go to the expense and trouble of executing another and formal declaration before an officer of a court of record before their claims, otherwise established, could be favorably adjudicated.

Legislation looking toward a remedy for this inconvenience has already been enacted in the provisions of the act approved July 1, 1890, as amended and construed by the joint resolution approved September 1, 1890, so that no legislation strictly new is embodied in the first two sections of this bill, being in a great degree a codification of existing law on this subject. But inasmuch as the act of July 1, 1890, relates to "affidavits and declarations to be hereafter made," its provisions are of course not retroactive, and hence a different rule prevails as to applications filed prior to and those filed since July 1, 1890.

To abolish this invidious and quite useless distinction section 3 of this bill is framed, with a view to curing and making formal all declarations now on file which have been duly executed before "any officer authorized to administer oaths for general purposes."

The provisions of this bill tend to solely uniformity, simplicity, and justice in the subject-matter touched upon, and your committee therefore return the bill with the recommendation that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 560.

ISAAC H. WHEAT.

MARCH 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1397.]

The Committee on War Claims, to whom was referred the bill (H. R. 1397) for the relief of Isaac H. Wheat, submit the following report:

The facts out of which the bill for relief arises will be found stated in House report from this committee in the Fifty-first Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 747, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 1910) for the relief of Isaac H. Wheat, report as follows:

This is a claim for a horse taken from the claimant in Jefferson County, Ind., in July, 1863, by the Army of the United States. Claim stated at $200.

The claimant presented his claim to the Quartermaster-General for payment, and not allowed.

The proof is positive that the horse was taken by the Army of the United States for the public service; that the horse was worth $200; that he has not received pay or compensation therefor from any source, either in whole or in part, but that the same is still due and owing to him from the United States; that the claimant was throughout the war loyal to the Government of the United States.

Your committee therefore report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 561.

THOMAS W. WHITE.

MARCH 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 111.]

The Committee on War Claims, to whom was referred the bill (H. R. 3543) for the relief of Thomas W. White, submit the following report:

Your committee is of opinion that this claim should be referred to the Court of Claims for a finding of facts, and report herewith a resolution to that effect and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 562.

WILLIAM AND MARY COLLEGE OF VIRGINIA.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 6863.]

The Committee on War Claims, to whom was referred the bill (H. R. 6863) for the relief of William and Mary College of Virginia, submit the following report:

This claim was presented to the Fifty-first Congress, and was favorably reported upon by the Committee on War Claims, to whom it was referred.

The investigation of this case having led your committee to substantially the same results as those arrived at by the committee of the Fifty-first Congress, the report of that committee, a copy thereof being hereto attached, is adopted and made a part of this report.

Your committee recommend that the bill referred to them do pass.

[House Report No. 3018. Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the memorial or petition of the College of William and Mary, of Virginia, report as follows:

The facts out of which this claim for relief arises will be found stated in House report from the Committee on Education and Labor of the Forty-fourth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report herewith a bill for the relief of the college and recommend its passage.

[House Report No. 203, Forty-fourth Congress, first session.]

The Committee on Education and Labor, to whom was referred the bill for the relief of the College of William and Mary, in Virginia, respectfully report:

On the 9th day of September, 1862, the principal building of the College of William and Mary was destroyed by fire. This college is in the town of Williamsburg, 35 miles from Fort Monroe, on territory which remained under the control of the United States during nearly the whole of the war. Williamsburg is situate on the narrowest part of the peninsula, partly in the county of York and partly in that of James City. York County was in the hands of the Union troops from May, 1862, to the close of the war. It was never during that time treated as rebel territory; was expressly excepted from President Lincoln's original proclamation of emancipation; it formed a part of the State of Virginia, which had for a time its seat of government at Alexandria under Governor Pierpont, was represented in Congress, and gave the necessary constitutional assent to the separation of West Virginia. The college is a little over the line in James City, but was in the town of Williamsburg, and was held by the Union forces, as was York County, and was practically Union territory as much as the rest of the town of which it formed a part.

Before the fire the United States took possession of the college buildings for military uses. Its rooms contained hay and other stores and cavalry equipments. The day before the destruction of the building a court-martial was going on in it, which was not over at the time of the destruction. On the morning of May 9, after a conflict between the Union forces and a body of rebel cavalry, the latter got possession of the place for a few hours. After their withdrawal, some returning stragglers of the garrison, provoked by defeat and under the influence of drink, set fire to the building and prevented the residents of the neighborhood from extinguishing the flames till it was wholly consumed.

The sum appropriated by the accompanying bill is somewhat less than the actual value of the building, which was erected in 1859, and is without the addition of interest.

We are of opinion that the United States should restore the building so destroyed, for several reasons which do not apply to any other claim whatever which can hereafter be made for the injury or destruction of property during the rebellion. The Government had taken possession of the property for its own purposes, excluding the owners and preventing them from taking any measures to secure its protection. This was on what was practically friendly and not hostile territory, and the case should be treated as if it had happened in Washington or Philadelphia.

There are other considerations which appeal most powerfully alike to reason and patriotic feeling in demanding this relief.

Every civilized nation has its hallowed spots, about which its patriotic memories cluster, and whose names rise before the imagination whenever these memories are stirred. Sometimes these spots are the scenes of famous battles, as Bunker Hill, or Saratoga, or Yorktown; sometimes the places where the foundations of great States have been laid, as at Jamestown or Plymouth; sometimes where great civic events have occurred, as Independence Hall or Faneuil Hall; sometimes the dwelling places or burial places of heroes or statesmen, as Mount Vernon or Westminster Abbey; sometimes the venerable institutions of learning which have educated and trained the great benefactors of the people, as Oxford and Cambridge, Harvard, Yale, Princeton, and William and Mary. Under our form of government these hallowed spots are in the custody of States. But they hold them as trustees for the whole people, and the gratitude and affection which surround and hallow them are the gratitude and affection of the whole people. Unless this be true, the American people, alone among civilized nations, are without any common objects of national reverence.

The colleges of the period preceding the war of the Revolution were among the most potent forces in accomplishing our independence and founding our Constitution. Among them, none can claim precedence over William and Mary. The names of Washington, to whose genius in war and to whose influence in peace we owe the vindication of our liberties and the successful inauguration of our Constitution; Jefferson, author of the Declaration of Independence, who announced the great law of equality and human rights; Marshall, without whose luminous and far-sighted exposition the Constitution could hardly have been put into successful and harmonious operation, are inseparably connected with hers. She first called Washington into the public service in his youth, giving him her commission as deputy surveyor, the office of surveyor-general being then held by the corporation of the college. He was for the last twelve years of his life chancellor of William and Mary. Jefferson and Marshall were her graduates. We doubt if any college in America or Europe can, in proportion to the whole number borne on its catalogue, show so large a list of names famous for conspicuous patriotic service or can extract from its history a passage like this, which is taken from President Ewell's historical sketch of William and Mary:

"Besides her long roll of most eminent divines, lawyers, and physicians in private life, she has given to the country two eminent Attorneys-General of the United States; to the House of Representatives of the Congress of the United States nearly twenty members; and to the Senate of the United States fifteen Senators; to Virginia and other States, seventeen governors; to the country, one historian and numberless eminent writers; to the State and the United States thirty-seven judges; to the Revolution twenty-seven of her sons; to the Army of the United States a lieutenant-general and a score of principal and subordinate officers; to the U. S. Navy a list of paladins of the sea headed by Warrington and Thomas Ap Catesby Jones; to the colleges and university twelve professors; to the nation three Presidents—Jefferson, Monroe, and John Tyler; to independence four signers of its Declaration; to the first American Congress its President; to the Federal judiciary its most eminent Chief Justice, John Marshall; to the Federal executive, seven cabinet officers; and to the convention which framed the Constitution of the United States, Edmund Randolph, its chief author and draftsman.

"In all she has given to her country more than two hundred heroes and sages who have been preëminently distinguished in public service and place."

Your committee are of opinion that if the accidents of war had led to the injury of

Mount Vernon, of the house or the tomb of Washington, or of Independence Hall in Philadelphia, we should have hastened to repair the injury. We shall more truly honor Washington by restoring the living fountain of learning whose service was the pleasure of his last years than by any empty act of worship or respect toward his sepulcher.

There is another view of this matter which impresses some of the members of your committee with very great force. It is unquestionable that, by the law of nations, institutions of learning are exempted by all civilized nations from the hostilities of war.

They are to be classed, in this respect, with public libraries, monuments, collections of art or science, hospitals, etc. The Government of the United States, in its Instructions for the Government of Armies in the Field, originally prepared by Dr. Lieber, revised by a board of officers, of which Maj. Gen. Hitchcock was president, and approved by President Lincoln in 1863, binds itself by these rules:

Extract from General Order No. 100, Adjutant-General's Office, section 2, paragraphs 34 to 36:

"34. As a general rule, the property belonging to churches, to hospitals, or other establishments of an exclusively charitable character, to establishments of education or foundations for the promotion of knowledge, whether public schools, universities, academies of learning, or observatories, museums of the fine arts, or of a scientific character, such property is not to be considered public property in the sense of paragraph thirty-one; but it may be taxed or used when the public service may require it.

"35. Classical works of art, libraries, scientific collections, or precious instruments, such as astronomical telescopes, as well as hospitals, must be secured against all avoidable injury, even when they are contained in fortified places while besieged or bombarded.

"36. If such works of art, libraries, collections, or instruments belonging to a hostile nation or government can be removed without injury, the ruler of the conquering state or nation may order them to be seized and removed for the benefit of the said nation. The ultimate ownership is to be settled by the enduring treaty of peace. In no case shall they be sold or given away, if captured by the armies of the United States; nor shall they ever be privately appropriated or wantonly destroyed or injured."

It is needless to multiply citations. Every authority on the law of nations who touches this subject, from Grotius to Halleck, agrees that the destruction of property of this class is a violation of this law. But it can not be maintained that the government is liable for all injuries committed either by its authority or wantonly by its troops, without orders, upon property protected by this rule. But there are many examples in history which seem to place the case of endowed institutions of learning, established by funds given for public purposes, upon grounds of their own, and give them a peculiar title to reparation when so injured, which is not possessed by the public school or even by the church. The funds or buildings of the public school are public funds belonging to the hostile sovereign and appropriated to the fulfillment of a function which that sovereign undertakes to perform for the citizen. The funds or buildings of the church, though consecrated to the highest objects, are the property of particular sects and are neither within the control nor for the use of mankind at large. But, in the language of an eminent judge, "the arts and sciences are admitted among all civilized nations as forming an exception to the severe rights of warfare, and as entitled to favor and protection. They are considered, not as the peculium of this or that nation, but as the property of mankind at large, and as belonging to the common interest of the whole species." (Case of the Marquis de Somerueles, Stewart's Rep., Nove Scotia, p. 482.)

The endowed corporation of the college can do nothing except hold and apply its fund to a cause which is for the benefit of mankind at large. It can not commit an act of war, and the hostile character can not properly be imputed to it. While a violation of the law of nations in the conduct of the war for the suppression of the rebellion can not constitute a claim upon the Government of the United States, using the term "claim" in the sense of legal constraint, we believe this Government should, in dealing with an American college, imitate the frequent examples which history furnishes, where the most highly civilized nations and the most famous commanders have respected their moral obligations by making voluntary reparation at their own expense of injuries inflicted on endowed colleges and kindred institutions by the operations of war.

During the battle of Princeton, the Americans, in dislodging the British from the college building, fired a cannon-shot through the walls; Washington, in order to make good to the college the damage sustained by the fire of his troops, made the trustees a present of 50 guineas.

During the War of Independence the buildings of William and Mary were repeatedly occupied by British troops. They were in every instance respected as sacred to the cause of letters and left intact. After the close of the war, Louis XVI, the

ally of America, caused the buildings, accidentally destroyed by the fire of his troops, to be replaced and every injury to be repaired.

Thus it appears that a Virginian, the chancellor of the College of William and Mary, rendered to a northern college the justice which is now asked for her. Thus it appears that a foreign monarch rendered, under like circumstances, to William and Mary herself the justice which she now asks of her countrymen of the Republic.

The British troops, under Tryon, when they occupied Yale College in 1779, spared Yale College, although its students in arms harassed their approach. But President Clup's manuscripts were carried off. President Stiles addressed a letter to General Tryon, in which he represented that "a war against science had been reprobated for ages by the wisest and most powerful generals. The irreparable losses sustained by the Alexandrian library and other ancient monuments of literature have prompted the victorious commanders of modern ages to exempt these monuments from the ravages and desolations inseparable to the highest rigors of war." General Tryon replied that, "disposed by principle as well as inclination to prevent the violence of war from injuring the rights of the republics of learning, he very much approved of the president's solicitude for the recovery of the manuscripts" and caused every effort to be made for their recovery and restoration.

In the war with Great Britain of 1812 a quantity of paintings and prints, designed for the Academy of Arts at Philadelphia, were captured by the British on their passage from Italy and taken into Halifax. Dr. Croke, the distinguished judge of the admiralty court, without hesitation, ordered them to be restored, saying, in addition to the passage already quoted, "Heaven forbid that such an application to the generosity of Great Britain should ever be ineffectual." (Case of the Marquis de Somerueles, above cited.)

We believe that to follow the example of Washington, of Louis XVI, of Judge Croke, of Tryon, will make every college in America safer, if civil strife or foreign war should ever hereafter disturb our peace. Every new State, as it takes its place in the great family, makes haste to establish its university. Their pupils, scattered over the country, retain an attachment for them and for each other, which is one of the strongest bonds of the Union. In her bloodiest and angriest civil strifes, England has respected her great schools and colleges. The cause of William and Mary is, in this respect, the cause of every college in the country.

The act of April 23, 1884, entitled "An act to increase the endowment of the University of Alabama from the public lands in said State," and another act for the indemnity of the theological institution in Alexandria, furnish exact precedents for our action in reporting the accompanying bill and recommending its passage by the House.

A bill like the present passed the House in the Forty-second Congress, but it was not reached in the Senate for want of time. It was received with expressions of approbation by the press of all parties and by persons connected with the colleges throughout the country. The committee report the accompanying bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 563.

HATCHER AND HIRAM SHORT.

MARCH 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 114.]

The Committee on War Claims, to whom was referred the bill (H. R. 4040) for the relief of Hatcher and Hiram Short, report as follows:

This is a claim for stores and supplies alleged to have been taken from the claimants by the Army of the United States during the late war. Claim stated at $2,500.

Your committee is of opinion that this claim should be referred to the Court of Claims for a finding of facts, under the provisions of the acts of March 3, 1883, and of March 3, 1887, and report herewith a resolution to that effect and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 564.

JOHN W. EPPES.

MARCH 8, 1892.—Laid on the table and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3667.]

The Committee on War Claims, to whom was referred the bill (H. R. 3667) for the relief of John W. Eppes, respectfully report:

This is a claim for stores and supplies alleged to be of the value of $15,000, and alleged to have been taken and used by troops of the United States during the late war.

It appears from the papers filed in the case that the claim was referred by this committee, in the Fiftieth Congress, to the Court of Claims for a finding of facts under the provisions of the "Bowman act."

The case has been fully heard in the Court of Claims and an adverse decision had upon the question of loyalty. Your committee further assert, as a principle by which they will be governed, when a cause has been fairly heard and determined in the Court of Claims, they will not assume to sit in review upon such determination.

The findings of the Court of Claims furnish the facts we are to consider, and we can not look beyond them.

Substantially the same was said in the case of Carver *v.* The United States (111 U. S. R., 609).

"We have no doubt that Congress, in cases under the Bowman act, intended to establish the same practice of making the findings of fact by the Court of Claims conclusive on both parties, thus removing from the halls of legislation the determination of controverted questions of fact, relieving itself and its committees from the investigation of such matters proper to be tried only by a judicial tribunal, and obtaining the full measure of the assistance and relief contemplated by the act."

Your committee, therefore, report adversely, and recommend that the bill do lie upon the table.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 565.

ESCAMBIA LODGE, NO. 15, F. AND A. M.

MARCH 9, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. AMERMAN, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany S. 81.]

The Committee on the Public Lands, to whom was referred the bill (S. 81) to relinquish the interest of the United States in a certain parcel of land in the city of Pensacola, Fla., to Escambia Lodge, No. 15, Free and Accepted Masons, having considered the same, submit the following report and recommend the passage of said bill.

The committee submit herewith communications from the acting Secretary of the Interior and the Commissioner of the General Land Office, in response to inquiries addressed to them regarding the subject-matter of said bill, and also submit herewith the report of the Senate Committee on Public Lands made on March 5, 1890, on a bill then pending in the Senate and of identical import with this bill. The committee would call special attention to the reports of Commissioners Lewis A. Groff and S. M. Stockslager, embodied in said Senate report.

While it does not appear, as far as this committee can ascertain, that the title to said parcel of land is in the United States, that point, nevertheless, has never been judicially determined and there has been more or less contention to that effect. Escambia Lodge has had possession of the land for some twenty years, and for some years past has had thereon a substantial two-storied brick building.

In view of the premises the committee sees no reason for refusing to remove the cloud on the title that has rested on said lot for many years past, and therefore recommend the passage of said bill.

DEPARTMENT OF THE INTERIOR.
Washington, March 1, 1892.

SIR: I have the honor to acknowledge the receipt by your reference for report as to status of a copy of S. 81, "To relinquish the interest of the United States in a certain parcel of land in the city of Pensacola, Fla., to Escambia Lodge, No. 15, Free and Accepted Masons."

In reply I inclose a copy of the report on the bill, with its inclosure, by the Commissioner of the General Land Office, dated the 27th ultimo, for your information.

It appears from the Commissioner's report that the status of the tract of land involved has not changed since the report of Commissioner Groff on February 12, 1890, on a similar bill (S. 1573) of the Fifty-first Congress, and with whose views he agrees.

Very respectfully,

GEORGE CHANDLER,
Acting Secretary.

Hon. T. C. MCRAE,
Chairman Committee on the Public Lands, House of Representatives.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 27, 1892.

SIR: I am in receipt by departmental reference of the 12th instant of S. 81, Fifty-second Congress, first session, entitled "A bill to relinquish the interest of the United States in a certain parcel of land in the city of Pensacola, Fla., to Escambia Lodge, No. 15, Free and Accepted Masons."

Said bill was referred to the Department by the chairman of the Committee on the Public Lands, House of Representatives, for a "report as to the present status;" and it is referred to me for report in duplicate and return of papers.

I have the honor to state that my immediate predecessor made a report to you on February 12, 1890, upon Senate bill 1573, a bill of similar import; and I inclose herewith a copy of Senate Report No. 398, Fifty-first Congress, first session, containing the aforesaid report by Commissioner Groff and other matters pertaining to the small tract of land which is the subject of the proposed legislation.

I am not aware of any change in the status of the land since the date of Commissioner Groff's report and I concur with the views expressed by him in the matter involved.

It will be observed that the Committee on Public Lands in the House of Representatives recommended the passage of said bill, No. 1573, and I know of no good reason why the fraternity named in the bill should not be confirmed in what is now a mere possessory right if Congress sees proper to legislate to that effect.

The copy of the bill referred is herewith returned.

Very respectfully your obedient servant,

THOS. H. CARTER,
Commissioner.

The SECRETARY OF THE INTERIOR.

[Senate Report No. 398, Fifty-first Congress, first session.]

The Committee on Public Lands, to whom was referred the bill (S. 1573) to relinquish the interest of the United States in a certain parcel of land in the city of Pensacola, Fla., to Escambia Lodge, No. 15, Free and Accepted Masons, having considered the same, submit the following report:

Escambia Lodge has had possession of the land described in the bill for many years. They erected a building upon it twenty years or more ago for the purpose of holding their lodge meetings. They claim that it has been occupied for no Government purpose for more than fifty years, and that their occupancy has been of sufficient duration to protect them against all claimants except the United States.

The committee have sought for information from the Department of the Interior relating to this parcel of land, and the following letter was received from the Secretary:

DEPARTMENT OF THE INTERIOR,
Washington, February 28, 1890.

SIR: I transmit herewith a report from the Commissioner of the General Land Office on Senate bill 1573, "to relinquish the interest of the United States in a certain parcel of land in the city of Pensacola, Fla., to Escambia Lodge, No. 15, Free and Accepted Masons," and also copy of a communication from the Commissioner of the General Land Office to the Secretary of the Interior, dated March 9, 1888, upon the same subject.

Said report and the papers therein referred to contain all the information in the possession of this Department relative to the parcel or lot of land in the city of Pensacola, referred to in said bill.

It does not appear that Escambia Lodge has any title to this lot, except the equitable or prescriptive title by long and continued enjoyment of the premises, which could not prevail as against the Government; but I know of no objection to the passage of the bill, if Congress should deem it proper to relinquish the interest and title of the United States to said lot for the purposes contemplated by said bill.

Very respectfully,

J. W. NOBLE,
Secretary.

Hon. P. B. PLUMB,
Chairman Committee on Public Lands, United States Senate.

The report from the Commissioner of the General Land Office, referred to in the letter, is as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 12, 1890.

SIR: I am in receipt by departmental reference, and for report, of a letter addressed to you on the 27th ultimo, by the chairman of the Committee on Public Lands, United States Senate, inclosing Senate bill 1573, entitled "A bill to relinquish the interest of the United States in a certain parcel of land in the city of Pensacola, Fla., to Escambia Lodge, No. 15, Free and Accepted Masons."

Said bill proposes to relinquish all the interest of the United States in a parcel of land shown on the plat of the city of Pensacola, namely: "That portion of the lot D, extending one hundred feet west from Comandancia street, in the Cabildo plan of V. S. Pintado, and 106 feet 10 inches south from Church street" * * * "occupied and held" by said Escambia Lodge.

I have the honor to report that the city of Pensacola was surveyed by this Government in the year 1827; and said lot designated "D" on Comandancia street is shown upon the official plat.

Acting Commissioner John Wilson, in a letter addressed to Senator Morton on September 18, 1852, declined to resurvey the city for the reason that he found no law warranting such action.

The original plan of the city and the Land Commissioner's report thereon, will be found in Gales and Seaton's edition American State Papers, vol. 4, pages 320 to 234.

Upon said plan, the small lot marked "*d*" appears at the northwest corner of lot "E," bounded on the north by "Recover street."

By act of Congress approved April 22, 1826, certain claims to lots reported in abstracts "K" and "L" were confirmed. (Vol. 4, American State Papers, pages 226 to 229.) The seventh section of said act also released certain squares to the corporation of Pensacola. Lots "reserved and granted for church, parish, vicar, school, and custom-house are respectively set apart and confirmed for the objects set forth in the decrees of said Cabildo;" and the public squares of Ferdinand, Seventh, Seville, etc., were reserved.

I can not ascertain that the piece of land which is the subject of the bill is involved in the particular provisions of the act of 1826.

By the act approved June 28, 1832 (Stat. 4, p. 550), the President was required to select such lots and buildings in the cities of Pensacola and St. Augustine "as may, in his opinion, be needed for public purposes," etc.

The second section of the act provided "that the lots, buildings, and commons *not* so set apart or needed for public purposes shall, at such time and in such proportions or sizes as may be deemed most advisable and conducive to the interest of the United States and the said cities, be sold at public auction as other public lands, and the money arising from the sales paid into the Treasury of the United States: *Provided*, That nothing herein shall be so construed as to authorize the sale of any lot or parts of lots, or other grounds which have been by the laws of Spain or the United States vested in the corporations of said towns, or which have been set apart for churches or burying-grounds by the laws aforesaid, or by any ordinance of the corporate authorities of the said cities."

The aforesaid provision of law for the sale of grounds in Pensacola does not appear by the records of this office to have been carried into effect, and I am unable to report what lands, if any, have been selected by the President.

If, however, it can be affirmatively shown that the land in question has not been so selected for public uses, through the Treasury or War Department, and should not now be reserved; that the fee is still in the United States, but that said Escambia Lodge of Masons is in possession and holds the equitable or prescriptive title by long-continued enjoyment, and that the legislation proposed seems necessary to quiet title, I see no objection to its enactment.

I inclose for information a copy of a report relative to lands in Pensacola, made by this office to the Department, March 9, 1888, and return herewith the letter and bill received by reference.

Very respectfully, your obedient servant,

LEWIS A. GROFF,
Commissioner.

Hon. JOHN W. NOBLE,
Secretary of the Interior.

The report made by the former Commissioner, referred to in the foregoing report is as follows:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 9, 1888.

SIR: I am in receipt of Department letter of the 27th ultimo, inclosing a communication dated at Pensacola, Fla., February 20, 1888, by Mr. F. C. Humphreys, clerk of the United States district court, calling attention to certain parcels of land within the city limits of Pensacola, "ceded by the treaty from Spain to the United States that are now in the possession of squatters and to which the United States Government holds title."

A report is requested as to whether the records of this office afford any information upon the subject.

I have the honor to state in reply that the data obtainable from the files and records in this office, relative to the lots of land designated by Mr. Humphreys, are very meager and unsatisfactory.

In Gales & Seaton's American State Papers, vol. 4, pp. 230-234, will be found a report upon and plan of Pensacola, by Commissioners Overton and White.

In the year 1827 the city was surveyed by United States authority—plat on file here—which survey it seems was, per instructions, "laid before the mayor and aldermen of said city and no errors found." Said survey shows the lots designated by letters of the alphabet, referred to by Mr. Humphreys and others. Some of them were occupied or claimed at that time for the following purposes, viz: Guardhouse, public jail, custom-house and revenue office, court-house, market-house, and public magazine, hospital, old barracks, national magazine, church lot, public prison, for public school, parish vicar, etc.

The act of Congress approved June 28, 1832 (4 Stat., 550), provided for the selection by the President of such lots and buildings in the cities of St. Augustine and Pensacola as were needed for public purposes, to be kept for the use of the United States; also for the sale, by auction, of the public grounds "not so set apart for public purposes."

The records of the Treasury Department ought to show what particular parcels of land were selected as aforesaid for the use of the Government, and are still in its possession.

The provisions of said act for the *sale* of certain public grounds do not appear to have been carried into effect so far as Pensacola is concerned.

It will be noticed that the act reserved from sale "any lot or part of lots, or other grounds, which have been by the laws of Spain or the United States vested in the corporations of said towns, or which have been set apart for churches or burying grounds by the laws aforesaid, or by any ordinance of the corporate authorities of the said cities."

By the act of April 22, 1826 (Stat. 4, 156), the United States had relinquished its title to certain lots or parts of squares to the municipal and church authorities.

Acting Commissioner John Wilson, in a communication addressed to Senator Morton, September 18, 1852, declined to order an official resurvey of the city, finding no law of Congress warranting such action. The occupancy of lot K or "Barracks" lot was in question at that time, but the Commissioner stated that he could not give an opinion in the case with the materials before him, etc. (See Exhibit A herewith.)

I inclose also copies of office letters dated February 9 and 10, 1866, addressed to Hon. A. C. Harding and the postmaster at Pensacola, Theodore Bissell, respectively.

The reply of Mr. Bissell can not so far be found on the files of this office.

From memoranda upon the plat of survey of 1827 this seems to have been the latest correspondence in the premises. (See exhibits B and C and D herewith.)

The "accompanying memoranda" alluded to by Mr. Humphreys was not received, and I respectfully submit the following suggestions:

Progress seems to be the order of the day in Florida, as in other parts of the land. There has been a healthy increase in her population during the last decade, and Pensacola doubtless feels the impulse and has a share in the increased prosperity of the State, but of the measures there contemplated for public or private benefit I have no certain information.

If, at this time, it is deemed advisable to investigate the rights of parties having prescriptive titles only to lands in said city, protected neither by treaty obligations nor statutory provisions, such examination of titles should be thorough, exhaustive, and final, and conducted under the direction of the Department of Justice.

This would possibly involve an examination of the old Spanish records relating to West Florida, in charge of the "keeper of archives" at Pensacola; the files and records of the surveyor-general's office at Tallahassee; the laws of the United States and of Spain; the title records of the city of Pensacola, or of the county, and of the city ordinances since the change of flags in the year 1821.

Any aid which this office can render in the matter will be cheerfully given.

It is also suggested that remedial legislation by Congress may yet be necessary; something in the nature of a statute of repose, an act to quiet titles within said corporate limits.

Mr. Humphrey's letter is herewith returned.

I am, sir, very respectfully, your obedient servant,

S. M. STOCKSLAGER,
Acting Commissioner.

Hon. WILLIAM F. VILAS,
Secretary of the Interior.

The following letter of April 12, 1860, from Howell Cobb, then Secretary of the Treasury, to the Secretary of the Interior, and the report of the Solicitor of the Treasury, dated April 10, 1860, which have been furnished from the files of the Interior Department, show that this Department has control of this subject so far as the Government has any interest in the land.

The letter of the Secretary of the Treasury is as follows:

TREASURY DEPARTMENT, *April 12, 1860.*

SIR: I have the honor to inclose herewith a copy of a report from the Solicitor of the Treasury of the 10th instant, with its inclosure, showing the right of the United States to certain lots in the city of Pensacola, some of which appear to have been intruded on and seem to require the attention of the appropriate public officers.

As the Solicitor is of the opinion that jurisdiction over this subject lawfully appertains to your Department, I beg leave to present it to your consideration.

Very respectfully, your obedient servant,

HOWELL COBB,
Secretary of the Treasury.

Hon. J. THOMPSON,
Secretary of the Interior.

The report of the Solicitor of the Treasury is as follows:

OFFICE OF THE SOLICITOR OF THE TREASURY,
April 10, 1860.

SIR: On the 19th ultimo you referred to me an extract from a report made to you by C. P. Cooper, esq., special agent of the Department, in which he called attention to certain lots of land, in the city of Pensacola, which he supposed to be the property of the United States, which lots were squatted upon by individuals who held them without title and refused to surrender possession to the authorities of the Government.

Finding no evidence in the office of the title of the United States to the lots referred to, I inclosed a copy of Mr. Cooper's report to Joseph Sierra, esq., collector of the customs at Pensacola, and instructed him to make proper inquiry into the matter and "report to me all lots in the city of Pensacola to which the United States have claim or title, designating each lot by its street, number on the city plat, etc., so that it may be known and described; also from whom it was acquired, and when, and the nature of the title of the United States."

I have now the honor to inclose you a copy of his answer, dated 2d instant, in which he describes the lots referred to and states that the premises "were known and called the Government house and were occupied by the Spanish governor until the change of flag in 1821, after which they were made the quarters of the officers of the Fourth Regiment of the United States troops, who occupied them a certain time, after which possession was taken by the civil authority, etc."

From this account of them it is manifest that said property was never in the charge of this office and that it had and has now no authority to do anything with them. Its authority is limited by law expressly to property acquired in payment of debts due to the United States. All thus acquired it is required to take proper charge of and to sell and dispose of the same; but in regard to the property in question I am clear that this office can do nothing.

My opinion is that the Department of the Interior alone has authority to look after it and make the proper disposition of it.

Very respectfully, your obedient servant,

JUNIUS HILLYER,
Solicitor.

Hon. HOWELL COBB,
Secretary of the Treasury.

In consideration of the facts set forth in these papers and the views of the Department of the Interior as set forth in the Secretary's letter, the committee recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 566.

CHICAGO POST-OFFICE.

MARCH 9, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. NEWBERRY, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany H. R. 5887.]

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 5887) to provide for an increase of space for the Chicago post-office and repair of the present building, respectfully report:

The large increase of business of that office and large number of employés resulting from increase in population and the increased business resulting from the World's Fair Association make necessary an increase of space, and your committee therefore recommend the passage of the bill, together with the sum therein named for repair of the present building.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 567.

PUBLIC BUILDING, CHICAGO, ILL.

MARCH 9, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. NEWBERRY, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany H. R. 3936.]

The Committee on Public Buildings and Grounds, to whom was referred House bill 3936, respectfully report:

The lands therein referred to are a part of land heretofore conveyed to the State of Illinois by the United States Government in trust for the use and benefit of the city of Chicago for public use. That the city of Chicago has ceased to use them for the purposes named in the trust, and that the property abutting thereon is now used for business purposes and not for residences as at the time of dedication.

The Government has no site of sufficient area for its use and no site could be obtained having sufficient area without a vacation of streets.

Your committee therefore report that inasmuch as the enormous growth of the city of Chicago, and its government business consequent thereon will soon and indeed does now demand much increased area, and inasmuch as said property was once public lands and no hardship would arise from the return of a fractional part of the lands therein referred to, your committee recommend the passage of the bill as amended.

Strike out all in line 9 from word "feet," all of lines 10, 11, 12, 13, 14, 15, and 16, and add after the word "feet" in line 9, the words "for use of the United States Government for its public building;" also in line 8 strike out "Washington" and insert "Randolph."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 568.

LIFE-SAVING APPLIANCES ON STEAMERS.

MARCH 9, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. WISE, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany S. 2056.]

The Committee on Interstate and Foreign Commerce, to which was referred the bill (S. 2056) to repeal the provisions of an act entitled "An act to amend sections 4488 and 4489 of the Revised Statutes, requiring life-saving appliances on steamers," approved March 2, 1889, so far as they relate to steamers plying exclusively upon any of the lakes, bays, or sounds of the United States, submit the following report:

The purpose of this bill is to repeal the requirement to carry line-carrying projectiles and the means of propelling them on steamers plying exclusively upon any of the lakes, bays, or sounds of the United States, but to leave the said requirement in existence as to ocean-going steamers.

Your committee quotes from a report of the Board of Supervising Inspectors of Steam Vessels, made under the general direction of the Secretary of the Treasury, and contained in Senate Ex. Doc. No. 22, of this session, and upon this special subject, as follows:

> On the lakes, bays, and sounds of the United States not even a problematical reason has been, nor, in the judgment of your committee derived from practical knowledge of the subject from long experience in the navigation of such waters, can there be even a theoretical reason given for the necessity of carrying the device under consideration upon a lake, bay, or sound steamer that would be entitled to serious consideration; and the views of your committee in this respect are substantially sustained by the evidence of the General Superintendent of the Life-Saving Service (Hon. Sumner I. Kimball), whose judgment in such matters will not be questioned in any part of the civilized world.

In a hearing before this committee, at which gentlemen representing the manufacturers of line-carrying projectiles were present and heard at such length as they desired, Gen. Dumont, Supervising Inspector-General of Steam Vessels, and Mr. S. I. Kimball, Superintendent of the Life-Saving Service, were also present. Gen. Dumont declared that this device was unnecessary, and the requirement to carry it is an imposition on the owners of steam vessels, sought to be relieved by this act. Mr. Kimball's opinion is sufficiently stated in a quotation which we make from a letter of the acting Secretary of the Treasury of the 21st of January, 1892, to the President of the Senate, which is to be found in Senate Ex. Doc. No. 22, which quotation also recites

the opinion of the acting Secretary of the Treasury on the matter contained in the bill (S. 2056):

In conclusion, I have the honor to state that this Department is fully in accord with so much of the second report of the Board of Supervising Inspectors, herein quoted, as is supported in substance by Superintendent Kimball, of the Life-Saving Service, in his testimony as given before the Board, from which it would appear that there is little reason for compelling the use of "line-carrying projectiles" on either lake, bay, or sound steamers, as a life-saving equipment, and that the law, so far as it affects such vessels, might be repealed.

And your committee unanimously recommend, as the result of their examination into the matter, that Senate bill 2056 do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 569.

ARID LANDS OF THE UNITED STATES.

MARCH 9, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LANHAM, from the Select Committee on Irrigation of Arid Lands in the United States, submitted the following

REPORT:

[To accompany H. R. 6790.]

The Select Committee on Irrigation of Arid Lands in the United States, to whom was referred the bill (H. R. 6790) for the reclamation of the arid lands of the United States and for other purposes, report the same to the House and recommend its passage.

Sundry bills, resolutions, memorials, and petitions have been referred to this committee during the present Congress relating to the subject of irrigation and the proper disposition of arid lands, the general trend of which has been favorable to the proposition of relegating these lands and the problems involved to State and Territorial control and administration.

The greater number of them has been of a general character, while others have been of local application, but all have been marked with the same distinct feature and uniform object, discovering a noticeable concurrence of opinion upon a subject-matter of vast public importance.

The vacant public domain of the United States, exclusive of Alaska, the Cherokee Strip (not yet opened to settlement), and certain other lands now claimed by Indians, is estimated by the report of the Commissioner of the General Land Office at 579,664,683 acres, surveyed and unsurveyed, in approximately equal proportions. The principal amount of this land is situated within what is known as the arid region, embracing the greater portion of the territory west of the ninety-seventh meridian of longitude, and contained chiefly within the boundaries of the States and Territories named in the bill to which, respectively, it is proposed that cession shall be made by the United States.

According to the estimates of Government officials the arid region, including the semiarid plains, embraces 1,340,000 square miles. Of this about one-fourth lies in the Great Plains region east of the Rocky Mountains, which is principally arable land; another fourth is embraced in the Rocky Mountain belt, not more than one-third of which is arable; three-eighths lies in the Great Basin and Plateau region between the Rocky Mountains and Sierra Nevada, about one-half of which is arable; while the remaining one-eighth is embraced in ranges of the Sierras, and is in the main rocky and unsusceptible of cultivation. It is estimated that about one-fourth of the arid region is composed of rocky or *mountainous nonarable* land.

Maj. Powell, Director of the Geological Survey, has expressed the opinion that 100,000,000 acres of this arid region can be redeemed by irrigation through the utilization of stream waters.

Mr. Newell, as shown in Census bulletins, estimates that 70,000 acres of land are now irrigated in the semihumid plains region, and that about 4,000,000 acres are irrigated in the arid region proper. It can not be stated with accuracy what amount of irrigable lands yet remain unreclaimed.

The greater portion of the land proposed by the bill to be ceded is in its present condition of little practical value, but is capable of being appreciated beyond computation by processes of irrigation; but to accomplish its reclamation and successful development will require long time, careful treatment, and great expenditure of money. It is now comparatively an arid waste, forbidding to the home-seeker, though fraught with untold possibilities. This land, urged by the necessities of our mighty civilization—the demands of our large and constantly increasing population for homes—the necessary development of its latent, though incalculable resources, cries out for redemption from its now unprofitable condition.

It is not in keeping with the progress of the age, the growth and dignity of our country, and the wants of our people that it should remain in its present unproductive condition. It must be rendered habitable. It can not, and ought not to, remain a perpetual wilderness and destitute of useful results. Either the United States must sooner or later accomplish its reclamation by direct appropriations from the Federal Treasury, by the construction and maintenance of irrigation works and the operation of the multiplied and manifold agencies for its development, or, failing so to do, it must leave it to the States and Territories within which it is embraced, in their own way, to work out that salvation which is possible.

If the Federal Government is to do this work it may well take notice that the ultimate demands upon its Treasury will be enormous, far beyond any present accurate calculation, but certainly at an expense far in excess of anything it has yet encountered for any specific object of internal improvement, reaching even billions of dollars. Nor can the point be overlooked and ignored that, if the National Government shall undertake the execution of this immense enterprise, it must perform that function in an impartial and comprehensive manner; it can not afford to lavish its expenditures on any favored locality, but it will be constrained, in all fairness and propriety, to treat the distinct, special, and local problems of reclamation in a suitable way wherever they may arise, as well in one State or Territory as another.

To do all that will be expected of it, and that the exigencies will require, will be simply impossible of accomplishment. Nor is it believed that the taxpayers of the country remote from the arid region will be induced to consent to the outlay necessary for such a purpose. When the magnitude and far-reaching consequences of such a proposition are considered and understood in all their phases, it is reasonable to assume that thoughtful, prudent, and economic men will conclude that the General Government, essaying this object, has a work upon its hands from which it may well pray deliverance, if that deliverance can be had in a manner consistent with sound public policy, just to the whole people, advantageous to the people most directly concerned, and upon their voluntary acceptance of the burden and assumption of the responsibility involved.

If the General Government, with full knowledge of the colossal

undertaking, will covenant with our Western people to go ahead with the enterprise, and prosecute the same to a successful conclusion, no serious objection is likely to be interposed by the States and Territories in the arid region. The immediate beneficiaries of such bounty would doubtless enter no protest. But the people of those States and Territories, recognizing the prevailing sentiment and realizing fully all the difficulties which encompass the situation, have reached the conclusion that the General Government will never do this work. They despair of any such prospect.

It would prolong this report too much to attempt an elaborate and detailed review of all the National Government has already done, the labor and money it has expended, the investigations it has conducted, the explorations it has made, the reconnaissances it has projected, the differentiations of irrigable lands it has disclosed, and the useful information and scientific *data* it has furnished in relation to the subject of irrigation and the reclamation of arid lands.

It has maintained bureaus. It has employed experts. It has made surveys, topographic and hydrographic. It has measured rainfall. It has gauged streams. It has defined catchment and drainage areas. It has located reservoir sites. It has investigated storm waters and their utilization, torrential flows and their conservation, the waters upon the earth and the waters under the earth, conditions of climate, the best methods of cultivating the soil by irrigation, and the agricultural results and possibilities which follow. It has even bombarded the skies and sought through explosives to wring waters from the reluctant clouds. It has experimented in every field and quarter where any promise was offered for valuable result. It has sent out special and select committees who have visited and examined the uttermost parts of the country in search of useful knowledge, as the basis of appropriate legislation; it has created and organized committees in both Houses of Congress, which have spent months of time in hearing and yet longer periods in deliberations; it has furnished exhaustive reports, compilations, statistics, and suggestions; it has printed books, published volumes containing information, foreign and domestic, and issued instructive maps; it has invested all sources of research; it has reserved from settlement certain irrigable lands, and then again it has reopened the lands to occupancy which it had formerly segregated; it has experimented in legislation as well as scientific examination, until it would seem that the era of education is completed and that the processes of national instruction may be discontinued without serious detriment to the Government.

It is not intended to underrate the importance and value of the great body of the work done by the Government in this connection; on the contrary, it must be conceded that much of it has been exceedingly useful and will be beneficially appropriated in the future. It has served to initiate careful inquiry and has apprised the people of what has been and may be accomplished in this and other countries. It has stimulated them by the wonderful solicitations to development and rewards to investment of effort and capital, which it has discovered.

Why should the Government desire to longer retain proprietorship of this arid region? Why, for that matter, should it now have a vast domain of unappropriated public land? It only holds lands as a trustee and until they can be suitably settled and occupied, and is presumptively interested only to the extent that actual, bona fide settlers may be accommodated. It is not supposed that it wants to retain them *in order that they may be* donated to corporations or given away as sub-

sidies. Enough of that has already been done. Its administration of the land system in the past has not escaped severe censure.

The most valuable and desirable part of the public lands has long since been disposed of, and the time has come when the inducements to actual settlers upon the remaining portion must be supplemented by such development as will render it desirable for homes.

It must be tickled with water before it will smile in fertility and attraction to the homesteader, and yet the Government wants it to be occupied. The moment any settler perfects title to his homestead the government cheerfully makes its transfer, and that settler becomes a citizen of the State wherein his land is situate, adding his taxable values to the State, and his contributions to its material prosperity, maintaining his dual citizenship of the State and the United States. If the Government retains public lands for actual settlers, it is but a delusion, unless those lands are put in such condition as to make settlement possible. Having parted with its best lands, shall it continue to hold the refuse, when it is apparent there will be but few, if any, takers?

Is it economical for the Government to continue the administration of the arid lands and support the expensive machinery and supervision therewith connected in consideration of the proceeds derived from the sales of such lands for homestead purposes? Is not the outgo greater than the income from the standpoint of actual settlement? There is not likely to be any material diminution in the cost of such administration, while there is a comparative present exhaustion and will be a continued future limitation of lands available for actual occupancy, and must be a corresponding decrease of the amounts of money received from the sales of such lands.

It would seem that the Government is now engaged in a losing business from this point of view and that such loss will continually enlarge and grow more serious by pursuing the existing policy, until all the supposed heritage in these lands will have been absorbed and consumed by the cost of their administration. In this view of the case, it would appear advisable for the General Government to relieve itself of the embarrassment under which it labors, if it can find some competent authority willing to assume the responsibility and to which the matter can be legitimately committed.

Attention is invited to that portion of the last Report of the Commissioner of the Land Office under the title of "The irrigation of the public lands," and especially to the following recommendation:

> A wiser plan, it seems to me, would be the transfer of the land and water to the direct control of the States, subject to such limitations and restrictions as would insure the reclamation of the land by the States and the transfer of title from the State in the first instance to actual settlers in quantity not exceeding, say, 160 acres of land to each settler.

Notice is also directed to his statement in the same connection in relation to the previous granting of "swamp lands" by the General Government and the unsatisfactory experience which ensued, as a sufficient argument in response to the alleged danger of the policy involved in the cession contemplated by the provisions of the bill now reported.

After a careful review of the whole question, we have arrived at the conclusion that the General Government will be benefited—that it will gain rather than lose by the proposed cession; that it will gain in the speedy reclamation of and settlement upon these lands; that it will gain in the acquisition and increase of a strong and self-supporting western population; that it will be benefited in the opportunity that

will be afforded for an outlet for its present and prospective millions of landless and homeless people, who now crowd, and will in future overflow, its dense and more populous Eastern States; that additions to popular well-being and prosperity will ensue; that fresh stimulus will be given to the States and Territories immediately interested to earnest endeavor for their own development; that local self-government, in all the problems involved, will assert its forces; that civilization will be advanced; that rich, waving fields and comfortable homes will make glad the solitary places which now abound in this dormant and unproductive region.

What will, what can the Government lose? What citizen, what State will begrudge their proportionate contribution of the heritage remaining in this fragment of the public domain to the people who are to redeem it? What sacrifice to either will be involved in surrendering these now barren wastes and hills and mountains? They will not go to aliens, but to our own people. It is worthy of notice that no serious protests from any Eastern State against the objects sought to be accomplished by this bill have found their way to your committee, notwithstanding the long time they have had the subject under consideration and the public notice which has been given concerning the character of the measures upon which they have been deliberating.

We have been forcibly impressed with the conviction that suitable legislation upon this subject is imperatively demanded and can not well be longer postponed. Our conclusion is that the only solution of the question will be found in ceding these lands to the States and Territories. That this policy will ultimately prevail we confidently predict.

Can the States and Territories administer the trust which it is proposed to commit to their hands? Will they do so wisely and well? It is not contemplated that the burden shall be forced upon them. Their voluntary acceptance must precede the actual cession. It will be left to them, in their own sovereign capacity, to determine for themselves as to whether they will receive the grant.

We are led to believe that they will accept, with the conditions and reservations defined and stipulated. The western people, almost with one accord, have united in asking this cession; they have signified their purpose and desire thorough legislative memorials; through the expression of large and representative conventions; through the resolutions of the great irrigation congress held at Salt Lake City, in last September, composed of delegates from ten States and two Territories, and through numerous petitions from different parts of the country. That they are in earnest about the matter there seems to be no room for doubt.

A sufficient answer to the inquiry as to the ability and competency of the States to deal with this question is the fact that they are States, clothed with all the paraphernalia of statehood, invested with the power and charged with the responsibility of conducting their own affairs and conserving the liberties, property, and happiness of their people. If they can not be safely trusted in all that concerns the well-being of their citizens within the sphere of State legislation, then their existence as States is a blunder and a reproach and they ought to be remitted to mere dependences upon the Federal Government. They are presumed to be intimately conversant with their own immediate necessities and conditions, and confidence must be reposed in the virtue and intelligence of their people.

If their legislatures are accessible to corrupt compassings, the responsibility will rest upon the people who choose them. If the voters

of a State can make a wise selection in the case of a member of Congress, no reason is perceived why they can not exercise the same judgment in the election of a State legislator. Western men, as a rule, reflect as high types of real manhood, in all its better elements, as adorn American character in any quarter of the Union. They are heroic, patriotic, energetic, and self-reliant, and can be depended upon for the performance of all the duties and obligations which devolve upon them.

If an illustration be required of the capacity of a State to administer its land system without supervision or interference upon the part of the General Government, the State of Texas, with its immense area, will furnish an instructive example. It has held out its own encouragement to immigration; it has invited capital in its own way; it has granted its lands at its own pleasure, both in preëmptions in aid of education and for internal improvement; it has issued its own patents and exercised, without restraint, its own judgment in the disposition of its public domain.

It is content with its own management and would revolt at interference. It retained its lands when it entered the Union, without limitation or restriction upon its power of administration and disposition. It is proud in its sovereignty of the soil and has demonstrated its ability to regulate its own affairs and execute its own land policies. It may be well argued that, with all the experience of the past and the benefits to be derived from the many lessons which that experience will afford, the States to which the cession may be made will prove themselves equal to the task they undertake. There is no apparent hazard in allowing them to make the experiment.

The objection which may be urged against the cession to the Territories before they are admitted as States of the Union, the doubt that the people would act wisely in the discharge of the trust, that the legislation on the subject might be reckless, and thus defeat the object to be attained, is largely met by pointing to the success which has attended the irrigation and reclamation of arid lands in the Territory of Utah. Irrigation in the United States by white men began in Utah in 1847 and has proved a most gratifying success under wise and conservative legislation, based largely upon actual experience. The waters have been so distributed and utilized by the settlers as to produce the very best results. Considering the scarcity of water and the vast area irrigated, there have been comparatively few conflicts over water rights.

The showing in the recent United States census of agricultural development gives a fair conception of what has been accomplished in that Territory. Crops were raised by irrigation in the census year ending June 30, 1890, on 263,473 acres, or 411.68 square miles, a trifle over five-tenths of 1 per cent of the entire area of the Territory. The aggregate number of farms was 10,757, and of these 9,724, or about nine-tenths, depended on irrigation, the remaining tenth being either stock ranches or farms in the northern end of the Territory, where the climate is less arid, or situated so high on the mountain sides that crops can be raised by what is known as "dry farming."

The irrigated farms in Utah are small, averaging from 20 to 30 acres each. It has not been the policy of the people of Utah to encourage the acquisition of large bodies of land, and the monopoly of water has been impossible. The laws were made to encourage and protect the settlers. The small holder had an equal opportunity for his proportionate share of water with the large holder. "The greatest good to the greatest number" is the prevailing idea and has always been

strictly enforced. Water rights are considered sacred, and no theft is regarded more despicable than the theft of water in the irrigating season; no misdemeanor is more quickly or severely punished.

A people who in the past, under the most adverse circumstances, have done so much to reclaim the arid lands, who have turned what had been considered deserts into fruitful fields, may be trusted to manage the arid lands within their borders; besides the power will still remain in Congress to disapprove any legislation which the Territories may enact. These considerations would seem to remove any serious apprehensions in regard to making cession to the Territories. It has not been thought advisable to impose too many restrictions upon freedom of action by the States and Territories which may accept the provisions of the bill; all necessary power and discretion ought to be left with them.

The *quantum* of land that may be disposed of to any person, corporation, or association is limited to 160 acres. This, it was believed, would have the effect of preventing monopolies and syndicates from securing possession of large bodies of these lands to the detriment of the rest of the people, and might serve as a restraint upon rash legislation in this respect should the same be attempted.

The mineral lands are reserved to the United States. These lands have not been distinctively classified, and the special localities where minerals may exist can not be satisfactorily designated, but must be left in a great measure to the discoveries of prospectors. From the nature of the case it is impossible to specify the extent of these lands. They are usually found in mountainous localities unsuited to agriculture. It is not believed that material confusion and conflicts of jurisdiction are likely to arise in consequence of this reservation. Some advantage may result by the General Government's maintaining a uniform system of mining laws, applicable alike to all the States and Territories.

The forests and timbered lands are included in the cession. The following extract from the memorial of the Salt Lake City irrigation congress is a strong statement of the relation of the forests to the subject of irrigation, and presents, in brief, cogent reasons for embracing these lands in the grant:

> No mention is made in the resolutions of the congress of the preservation of the forests, but the subject is too intimately associated with that of irrigation to be divorced. The coniferous trees, such as constitute the timber growth on the mountains and elevated plateaus of the West, are exceedingly inflammable, and when once fire is communicated to them a vast destruction of values ensues. The loss from this cause, measured by the stumpage value of the timber alone, may be estimated without extravagance at $100,000,000 per year. The Federal Government has made some efforts to arrest this destruction, but wholly without success.
>
> It is from the States, or local agencies created by the States, that protection must be sought. To the settlers the preservation of the forests is a matter of grave importance. They are dependent upon them for fuel, fencing, and building materials; but this is by no means the limit of their interest. The forests on the mountain tops are the chief conservators of the waters that are to irrigate the valleys below. With their destruction the reclamation of the arid lands ceases to be a problem and becomes an impossibility. An efficient and just system of preserving the forests from destruction by fire and applying them under proper restrictions to the use of settlers can not be otherwise provided and administered than by the States.

These are not the only reasons which support the proposition, but are deemed sufficient for the purpose of this report and to serve as a basis for more extended future discussion.

The committee, in their deliberations, have not overlooked the difficulties in the matter of interstate waters—the possible exhaustion, for irrigation purposes, of the waters of streams rising in and flowing through

and from one State to another State or Territory before they reach the boundary line which divides them. They have realized the trouble involved in equitable distribution and prior appropriation of such stream waters, as well as the conflicting interests which may arise. Illustrations and object lessons in this connection, both of an interstate and international character, have not been wanting. These difficulties and conflicts, in the opinion of the committee, can not be removed nor obviated in any satisfactory manner by legislative enactment.

One State may possess natural advantages as to water and otherwise, which have not been provided for its adjoining neighbor, nor can the fortunate possessor of such natural advantages be debarred from the reasonable and necessary enjoyment which they afford. No legislation can equalize these conditions; nor is it probable that one State, knowing its natural advantages, would enter into any agreement with its less favored neighbors which might involve the surrender or diminution of its existing superior conditions. Voluntary arbitration of differences are improbable, and appointive commissions could not adjust the inequalities.

There are periods of scarcity of water in these interstate streams, as well as flood times, attributable to natural causes. In the one case, the supply is wholly inadequate to the necessities of any considerable number of settlers upon their courses, even near the sources; in the other case, there is such a superabundance as to be even dangerous and destructive in localities remote from the sources. Statutes can not regulate these conditions, nor can interstate agreements control them. It will require more work and greater expenditure upon the part of some of the States and Territories than others to conserve and utilize the the waters necessary for irrigation. More artificial agencies, such as constructing reservoirs, impounding storm waters, building dams, restraining and diverting torrential flows, and boring artesian wells, will have to be employed by one State or Territory than another, dependent upon its peculiar situation and environments.

Irrigation conveys the idea of supplementing and relieving natural wants by artificial means. The less favor nature has extended any given State or locality in affording it permanent water supply, the greater will be the burden to be overcome and the more exertion and expense will be required to cure the defect. Each State and Territory affected by the bill will, it is believed, better understand and more thoroughly appreciate its own peculiar condition and the specific problems which require solution, than it will be possible for Congress to do, and when it accepts the cession proposed it will do so with full knowledge of the responsibility assumed; it will take the grant *cum onere*, and upon its wise administration of the power conferred will depend its own prosperity and future success.

The lands which will be ceded if the bill becomes a law and its provisions are accepted by all the States and Territories therein named will amount to 558,141,374 acres, less whatever number of acres may have been taken up since the estimate in the report of the Commissioner, dated September 23, 1891, and deducting also the mineral lands, which, for the reasons before stated, can not be differentiated nor their extent determined, and are distributed as follows:

	Acres.
Arizona	55,061,005
California	52,299,499
Colorado	42,167,030
Idaho	33,781,851
Kansas	799,078

	Acres.
Montana	74,372,769
Nebraska	11,460,436
New Mexico	54,893,679
Nevada	53,689,524
North Dakota	16,135,440
Oklahoma	3,502,406
Oregon	39,220,151
South Dakota	14,085,394
Utah	35,428,987
Washington	20,401,691
Wyoming	50,842,434

It is deemed unnecessary to attempt any further analysis of the bill at this time. It is here subjoined for examination in connection with this report.

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That, subject to all rights, inchoate or perfected thereto, all the lands of whatever nature or description and rights thereto, including water rights, now belonging or appertaining to the United States, lying and being situated in the States of Nebraska, Nevada, South Dakota, North Dakota, Montana, Washington, Oregon, Wyoming, Idaho, Colorado, Kansas, and California, and in the Territories of New Mexico, Arizona, Oklahoma, and Utah, severally, with full and complete jurisdiction thereover, be, and are hereby, granted, ceded, and confirmed to said several States and Territories, the grant to each of said States and Territories to be of the lands contained within its present boundaries and territorial limits. And the President of the United States shall issue letters patent for the same to the said several States and Territories in this section designated whenever and as any of said States and Territories shall by an act of its legislature accept the disposition of the lands as herein provided, within the time hereinafter specified. This act shall in no manner affect any of the lands held by the United States for parks, naval, military, or other public purposes, nor any Indian lands, nor lands held in trust for or for use by Indians, nor mineral lands, nor shall it apply in any manner to the Territory of Alaska.

SEC. 2. That the governors of the Territories of Utah, Arizona, Oklahoma, and New Mexico shall, within a reasonable time after the passage of this act, call special sessions, if need be, of their several legislatures, to take into consideration and pass upon the provisions of this act and the questions herein submitted to them, and may from time to time call such other sessions of their respective legislatures as may be rendered necessary; and the benefits of this act shall not accrue to any State or Territory which shall not have accepted the provisions thereof within four years from its approval.

SEC. 3. That as soon as practicable after the issuance of letters patent to any State or Territory herein mentioned, for the lands therein situate, and from time to time thereafter as occasion may require, it shall be the duty of the Secretary of the Interior, at the expense of the United States, to cause to be delivered to the proper authorities of such State or Territory all maps, records, books, and papers, or certified copies thereof in case it may be necessary to retain the originals in the General Land Office, which may be necessary to such State or Territory for the proper control, administration, and disposition of such lands.

SEC. 4. That no State or Territory accepting the cession of lands as herein provided shall in any case sell, lease, or dispose of said lands in greater quantity than one hundred and sixty acres to any one person, corporation, or association, nor shall any such State or Territory in any manner impair or abridge the homestead privileges now granted to soldiers and sailors under the land laws of the United States.

VIEWS OF THE MINORITY.

The proposition of the majority of the committee is to cede to the several States and Territories, wherein it is situate, all that part of the remaining public domain known as arid lands. No sufficient reason in the judgment of the minority is given why such a radical change from the well-known and well-defined path of the past should be taken in the disposition of a great part of what remains of our public lands, the common heritage of all the people alike, and we are therefore constrained to dissent from the views of the majority and oppose the passage of the bill reported. Of the public domain there yet remains undisposed of, according to the report of the Commissioner of the General Land Office for the year 1891, 579,664,683 acres.

This estimate does not include any public lands which may now remain in Ohio, Indiana, or Illinois, which is no more, perhaps, than a few isolated tracts in these States. It will also be borne in mind that the above estimate of the remaining public lands does not include any part of the Cherokee Strip, containing 8,044,644 acres, nor any of the lands owned or claimed by the Indians in the Indian Territory west of the ninety-sixth degree of longitude, which, by act of Congress of March 2, 1889, it is intended to make a part of the public domain also. Neither does said estimate include any part of Alaska, which contains 369,529,600 acres, on which 1,000 acres have been taken up as mineral lands.

The estimated area of arid lands in the United States and Territories, exclusive of Alaska, is 1,340,000 square miles, or 857,600,000 acres. In 1890 it was estimated that 8,057,000 acres of these arid lands had been irrigated and were under cultivation, and that from 2,000,000 to 4,000,000 acres more were then under canals and ditches, and would soon be under cultivation also. This amount has no doubt been largely increased since that estimate was made in the early part of 1890. Of this 1,340,000 square miles of arid lands, 258,070 square miles, or 165,164,800 acres, are timber lands, of which 125,770 square miles, or 80,392,800 acres, are valuable merchantable timber lands. It is also estimated that a vast portion of what is claimed as arid lands is valuable pasture lands. In Wyoming alone, 90 per cent of all the arid region is pasture lands.

It is proposed by the bill reported to make an absolute cession of all these lands to the several States and Territories wherein it is situate, viz: Nebraska, Nevada, South Dakota, North Dakota, Montana, Washington, Oregon, Wyoming, Idaho, Colorado, Kansas, and California, and in the Territories of New Mexico, Arizona, Oklahoma, and Utah, with these exceptions:

> This act shall in no manner affect any of the lands held by the United States for parks, naval, military, or other public purposes, nor any Indian lands, nor lands held in trust for or for use by Indians, nor mineral lands, nor shall it apply in any manner to the Territory of Alaska.

It will be seen that the principal exception made in the cession is the mineral lands.

Now what are mineral lands and where are they? What are mineral lands to-day may soon cease to be such by reason of the exhaustion of their products, and as soon as their treasures have been exhausted they are at once abandoned and the State or Territory wherein these now known mineral lands lie will have to make an acceptance of them by act of their respective legislatures or they will revert back to the General Government.

Again, what are not thought to be mineral lands to-day may to-morrow prove to be very rich in mineral deposits by some discovery; so that by the reservation as to mineral lands, in this bill, at once a door is opened to a never-ending dispute and contention between the Government and the State or Territory wherein these newly discovered mineral lands lie as to their ownership. We think that, before this wholesale and radical disposition, by gift, of the people's natural heritage is made, cool and deliberate thought should be had.

The passage of this bill will lead to another equally complicated and vexatious question, and probably a very expensive one. It is tacitly admitted that not all of our remaining public domain is arid and unfit for cultivation without irrigation. The arid region has by no means been strictly defined, so that Congress will know how much it has given, nor will any State or Territory know how much has been ceded to it, so that at once there arises a complication of facts and a dispute which to settle will require time and a vast expenditure of money both by the Government and the contending State or Territory.

It will also be seen that the bill attempts to couple with the gift a limitation or restriction that no State or Territory accepting the cession "shall in any case sell, lease, or dispose of said lands in a greater quantity than 160 acres to any one person, corporation, or association," etc., with no kind of a forfeiture for any violation. Now, after the cession is made and accepted by the several States and Territories, the title to the land passes from the donor and vests in the donee as soon as accepted, and the Government has no further claim or control over it and can not prevent the sale of every acre of the land to one man, except in the action of the Territorial legislatures. Our experience in the past under similar grants has taught us that such is not impossible.

The minority opposes the passage of the bill for another reason. The bill, it will be seen, proposes to dispose of about one-half of our remaining public domain except Alaska, for it will be borne in mind that we have remaining but 579,664,683 acres, exclusive of the Cherokee Strip and some other Indian lands now in dispute, and that the estimated area of arid lands is 277,935,317 acres, and to the extent of the cession the bill will change entirely the heretofore satisfactory management of our public lands in the United States. It is true, as contended by some, that in the management of our public lands in the past by the Government, some frauds and abuses have been indulged in, but will you better its management by transferring it to the States and Territories? Will you not multiply the opportunities of the land-grabber for every division you make of the controlling power of the public lands?

Heretofore Congress has been induced by arguments no more plausible than those presented now to make large grants of swamp lands to several States, claiming that it was indispensably necessary to make the grants so that the land could be reclaimed by ditching, etc., to furnish houses for the homeless, and yet no sooner were these grants made than without a single exception known to us almost all of these large grants passed into the hands of the ever-present land-grabber, and by all man-

ner of frauds these men made themselves rich at the expense of the very persons intended to be benefited by the grants.

It is a melancholy fact, also, that not even our school lands escaped the greed of the land-grabber. Who knows but that this same régime will be resorted to and repeated with our arid lands with the same disastrous effects? Who can give that positive assurance, such as a prudent man would feel safe in acting in this matter, that these same inexcusable frauds will not be repeated in this instance? Had we not better profit by our past experience in similar cases, as well as to refrain from giving away such a vast amount of our public lands?

Information furnished us from a reliable source shows that these arid regions are being rapidly reclaimed by irrigation under the present law, and by consulting the records it is very apparent that the work of irrigation is now going on in almost every place in these several States and Territories where irrigation is possible and that vested rights have been acquired, which this bill does not seek to disturb, and could not if it attempted so to do.

The minority oppose the passage of this bill for another reason. The people of all the other States and Territories have purchased their lands, except grants of swamp lands, which were a detriment instead of a blessing, and paid many hundred millions of dollars into the United States Treasury, and have a right now to demand that the same policy shall be pursued with reference to the remainder of our public lands instead of giving to some of the States and Territories one-half of our remaining public domain for no other consideration than the mere asking for it.

In view of the facts the minority feel compelled to protest against the passage of this bill.

JOHN L. BRETZ.
JERRY SIMPSON.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 570.

EXHIBITION OF CERTAIN BOOKS, PAPERS, ETC., FROM THE LIBRARY OF CONGRESS.

MARCH 9, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LITTLE, from the Committee on the Columbian Exposition, submitted the following

REPORT:

[To accompany H. Res. 87.]

The Committee on the Columbian Exposition, to whom was referred the joint resolution (H. Res. 87) to authorize the Librarian of Congress to exhibit at the World's Columbian Exposition certain books, papers, documents, and other articles from the Library of Congress, report in favor of the passing of the resolution, with the following amendment, viz:

Insert in the fourth line of the resolution after the words, "World's Columbian Exposition," the following words: "As part of the Government exhibit."

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 571.

THIRD DIVISION OF THE DISTRICT OF KANSAS.

MARCH 9, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. BRODERICK, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 7020.]

The Committee on the Judiciary, to which was referred the bill (H. R. 3619) to create a third division of the district of Kansas for judicial purposes, and to fix the time for holding court therein, have had the same under consideration and find that there were pending in the United States courts in Kansas, at the commencement of the November term, 1891, more than one hundred cases, which arose within the territory proposed to be included in the division to be created by this bill, namely, in the counties of Miami, Linn, Bourbon, Crawford, Cherokee, Labette, Neosho, Allen, Anderson, Coffey, Woodson, Wilson, Montgomery, Chautauqua, Elk, and Greenwood, and the Quapaw Indian Reservation in the Indian Territory; that said Quapaw Indian Reservation is a small tract of land situated in the Indian Territory, south of and adjoining the county of Cherokee, in Kansas; that Fort Scott, where the proposed court is to be held, is the county seat of Bourbon County, and contains a population, by the census of 1890, of 11,837; that there is a public building in said city, erected by the United States, with ample rooms and accommodations for the proposed courts; that said city of Fort Scott is about 110 miles from the cities of Topeka and Wichita, and about 125 miles from Leavenworth, where the Federal courts are now held in Kansas.

The committee is of opinion that the litigation arising in this territory will warrant the creation of the division as provided in the substitute herewith submitted. It is therefore recommended that the original bill be laid on the table and the substitute passed.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 572.

AIDS TO NAVIGATION IN TAMPA BAY, FLORIDA.

MARCH 9, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MALLORY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany S. 1498.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 1498) for the establishment of additional aids to navigation in Tampa Bay, Florida, having considered the same, report and recommend the passage of the bill with the following amendment, to wit:

Beginning in line 6 of the bill, strike out the following words: "and the sum of six thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of this act."

The report of the Senate Committee on Commerce, embodying letters from the acting Secretary of the Treasury and the Light-House Board, showing the urgent necessity for the additional aids to navigation in Tampa Bay provided for by this bill, are herewith submitted as a part of this report.

[Senate Report No. 84, Fifty-second Congress, first session.]

The Committee on Commerce, to whom was referred the bill (S. 1498) for the establishment of additional aids to navigation in Tampa Bay, Florida, having considered the same, report and recommend the passage of the bill.

The annexed letters from the Acting Secretary of the Treasury and the Light-House Board are herewith submitted.

TREASURY DEPARTMENT,
Washington, D. C., January 15, 1892.

SIR: I have the honor to acknowledge the receipt of a reference made January 12, 1892, from the Committee on Commerce of Senate bill 1498, appropriating $6,000 for the establishment of additional aids to navigation in Tampa Bay, Florida.

With reference to this matter the Light-House Board reports that, in its opinion, the interests of commerce and navigation require that certain specified changes be made in the existing aids to navigation in Tampa Bay, and that certain other specified additional aids should be provided.

The Light-House Board is also of the opinion that the amount named in the bill is sufficient for the purpose.

Senate bill 1498 is herewith returned.

Respectfully, yours,

O. L. SPAULDING,
Acting Secretary.

Hon. WM. P. FRYE,
Chairman Committee on Commerce, U. S. Senate.

TREASURY DEPARTMENT, OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, May 25, 1891.

SIR: The Board has the honor to acknowledge the receipt of your letter of May 20, 1891, relative to the need in Tampa Bay and adjacent waters of additional lights and beacons.

In reply the Board begs leave to say that the matter has already received careful consideration.

Early last spring the local light-house officers, after having been duly instructed, made thorough examination and careful report of the facts in the case.

The Board then, at its session of June 2, 1890, considered all the papers before it bearing on the question, and then decided that, in view of the fact that Tampa Bay affords the best harbor on the Florida coast, and that 20 feet of water can be carried clear up to the wharves, the interests of commerce and navigation require that certain changes be made in existing aids to navigation in Tampa Bay, and that certain additional aids be provided as follows:

(1) That the outer buoy for the north channel be made a whistling buoy.

(2) That the red buoy No. 2 of the north channel be replaced by a red-sleeve pile day beacon.

(3) That the red buoy No. 2 of the southwest channel be replaced by a red-sleeve pile day beacon.

(4) That the black buoy No. 3 to the eastward of Mullett Key, be replaced by a black-sleeve pile light beacon.

(5) That the red beacon No. 6 be replaced by a sleeve pile beacon showing a red light.

(6) That the red beacon No. 8 be made a sleeve-pile beacon showing a red light.

(7) That a sleeve-pile day beacon, with red and black stripes, be placed on the wreck to the southwestward of Gadsden Point.

(8) That a sleeve-pile day beacon be placed on the 8½-foot shoal off Catfish Point, near the mid-channel buoy, Hillsboro Bay.

(9) That the red No. 6 buoy be made a sleeve-pile beacon showing a red light.

The estimated cost of establishing these new aids to navigation is $6,000, and recommendation was made that the proper measures be taken to have the necessary appropriation made therefor.

As a result of this action, on December 12, 1890, a bill, No. 12789, copy herewith, was introduced into the House of Representatives by Mr. Allen, of Michigan, making an appropriation of $6,000 for doing this precise work, when it was referred to the Committee on Commerce.

A duplicate of this bill No. 13145 was, on January 14, 1891, introduced into the House of Representatives by Mr. Candler, of Massachusetts, when it was also referred to the Committee on Commerce.

On January 7, 1891, Mr. Baker, chairman of the House of Representatives Committee on Commerce, referred this first-named bill to the Treasury Department for its views, and on January 14 the Department, at the instance of the Light-House Board, made favorable reply, a copy of which is herewith submitted.

The bill, however, failed of passage; hence it becomes the duty of the Board to set out the facts in its forthcoming annual report and to recommend the specified appropriation in its annual estimates.

No action can be had in this matter until after July 1, 1892, when the new fiscal year begins, if then.

Additional aids to navigation in Tampa Bay are urgently needed by its increasing commerce. The Light-House Board, therefore, has determined to take the rather unusual step of immediately marking the channel by huge numbered day beacons, which the electric search lights, now carried by most steamers, will make as available at night as during the day. This makeshift, it is hoped, will avert serious disaster until appropriation can be made for the erection of the needed and recommended lights.

Respectfully, yours,

GEO. W. COFFIN,
Commander, U. S. Navy, Naval Secretary.

Hon. S. PASCO,
United States Senator, Monticello, Fla.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 573.

J. E. GILLINGWATERS.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PATTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 4046.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4046) for the relief of J. E. Gillingwaters, having had the same under consideration, beg leave to submit the following report:

The records of the War Department show that J. E. Gillingwaters was enlisted March 14, 1862, as a private in Company C, Tenth Regiment Missouri State Militia Cavalry, subsequently known as Company C, Third Regiment Missouri Militia Cavalry, and that he was discharged January 9, 1864, to enlist in the Twelfth Regiment Missouri Cavalry; that he enlisted January 11, 1864, as a private in Company H, Twelfth Regiment Missouri Cavalry, and was dishonorably discharged the service by sentence of general court-martial. Reference is here made to the accompanying report of the Secretary of War, which forms a part of this report.

It appears that during the year 1865, while in the State of Tennessee in pursuit of Gen. Hood's army, at an inclement season of the year, the said Gillingwaters having lost his blankets, and while on scout duty in company with and under the command of Capt. Harris, an army scout, they discovered a quantity of stores, with the consent and approval of his captain, Harris, took possession of the blankets and a walking cane. Said cane had inscription showing that it was the property of a Confederate officer. He was afterwards ordered by some officer who happened to be present to replace the things he had taken, which he did. Afterwards consulting with officers of his own command he was instructed to keep the blankets; he thereupon carried away the blankets and the cane; the cane to present to the colonel of his regiment, the blankets for himself. The court-martial before whom he was tried sentenced him to be dishonorably dismissed and to forfeit pay and allowance, which sentence, in the judgment of this committee, was for the purpose of making an example for the benefit of discipline in the command.

This soldier at that time being under 18 years of age, and previously having had a good reputation as a soldier, we think that he was unduly dealt with, and in view of all the facts, as set forth in the evidence filed with this report, we recommend that the bill do pass with the following amendments:

(1) Amend line 3 by inserting the word "notwithstanding" after the word "That."

(2) Amend by striking out all that portion of the bill following the word "Volunteers" in line 5 and extending to and including the word "control" in line 10, and inserting in lieu thereof the following: "The Secretary of War be, and hereby is, authorized and directed to issue to said Gillingwaters an honorable discharge of the date of his release from military control."

(3) Amend by adding after the word "appropriated" in line 17 the following: "and said Gillingwaters is hereby restored to all rights and privileges forfeited by sentence of said court-martial."

Case of J. E. Gillingwaters, late of Company H, Twelfth Regiment Missouri Cavalry.

RECORD AND PENSION DIVISION, *February 25, 1892.*

The records show that James E. Gillingwaters was enlisted March 14, 1862, as a private in Company C, Tenth Regiment Missouri State Militia Cavalry (subsequently known as Company C, Third Regiment Missouri State Militia Cavalry), and that he was discharged January 9, 1864, to enlist in the Twelfth Regiment Missouri Cavalry; that he enlisted January 11, 1864, as a private in Company H, Twelfth Regiment Missouri Cavalry, and was dishonorably discharged the service by sentence of general court-martial, promulgated in orders of which the following is a copy:

[Extract.]

GENERAL ORDERS, No. 25. } HEADQUARTERS FIFTH DIVISION, CAVALRY CORPS, MILITARY DIVISION MISSISSIPPI.
Eastport, Miss., May 26, 1865.

Before a general court-martial convened by virtue of General Orders, No. 20, from these headquarters, dated Eastport, Miss., April 24, 1865, and of which Col. John W. Graham, Seventh Illinois Cavalry, is president, was arraigned and tried:

* * * * * * *

XII. Private James E. Gillingwaters, Company H, Twelfth Missouri Cavalry.
Charge.—Larceny.
Finding.—Guilty.
Sentence.—And the court does therefore sentence the said private James E. Gillingwaters, Company H, Twelfth Missouri Cavalry, to be dishonorably discharged the service with the loss of all pay now due, and to be confined at hard labor for six months.

* * * * * * *

XXV. Proceedings and findings and sentence in the case of Private James E. Gillingwater, Company H, Twelfth Missouri Cavalry, are approved. The commanding officer of the Twelfth Missouri Cavalry will have the prisoner brought under guard before the regiment at dress parade, the order promulgating the proceedings read, and the prisoner trumpeted from their right to the left of the regiment with "rogue's march," and then forwarded, with a copy of the order in his case, to Capt. R. M. Goodwin, assistant provost marshal general, Department of the Cumberland, for confinement in military prison at Nashville, Tenn.

* * * * * * *

By command of Bvt. Maj. Gen. Edward Hatch.

HENRY A. COLVIN.
Assistant Adjutant-General.

The specification under the charge is as follows:

"In this, that he, James E. Gillingwaters, private Company H, Twelfth Missouri Cavalry, did improperly and illegally have possession of and did feloniously carry away, with the intent to appropriate to his own use and benefit, one Mackinaw blanket and one silver-headed cane, the property of a citizen of Purdy, Tenn. * * * All this on or about the 5th of April, 1865."

In a petition to the President, dated May 20, 1872, which was referred to this Department, Mr. Gillingwaters makes the following statement:

"That during the year 1865, while in the State of Tennessee, in close pursuit of Gen. Hood's army, at a very inclement season of the year, he lost his camp blankets, of which he was in much need, and while on scout duty in company with and under the command of Capt. Harris, an army scout, they were informed of a quantity of army goods belonging to the rebels stored in a certain building near Pittsburg Landing. Your petitioner stated his need to the officer and asked him if he could not be supplied out of the rebel stores said to be in that building. To this

the officer replied he could be supplied from the stores referred to, and believing that they had a right to capture rebel goods your petitioner, in company with the officer and several other soldiers, proceeded to and entered the building and searched it, and in the house they found a quantity of blankets, clothing, and other articles. Believing them to be Confederate stores, though claimed as private property, at the suggestion of the officer with him, he took two blankets, to supply his immediate wants, and a fine walking cane, the property of a Confederate officer, which your petitioner captured, intending to present it as a trophy to his colonel.

"There were in the building a large quantity of blankets, perhaps twenty-five or thirty, all of which were taken by other Union soldiers, and for which no arrests were made, except your petitioner, who, for the act above described and frankly stated, was arrested on a charge of larceny, tried by a court-martial, and condemned to a forfeiture of all pay and allowances and six months' imprisonment, and to a dishonorable discharge, all of which were fully executed. From the fact that no other arrest was made for the same offense, your petitioner infers and believes that the arrest was caused by personal malice to your petitioner. On the trial your petitioner had no attorney to defend or direct him and to shield him from the effects of youthful ignorance of law. He could have offered in mitigation of his offense the suggestions of his officers and the example of others, but he disdained to become an informer on brother soldiers in order to shield himself from punishment if he was really guilty of violating the Army laws.

"Your petitioner does not reflect on the honor or justice of the court which tried and condemned him. He is bound to presume that the court was governed by the law and the evidence in the case as presented. He also admits that the act as he now sees it, after several years of more mature age and reflection, was against the spirit and probably the letter of the Army regulations. He sees and admits the necessity of those regulations and discipline being strictly enforced for the honor and dignity of the service and for the good of the Army individually and collectively. But he earnestly solicits the attention—the charitable attention—of the President in mitigation and palliation of the offense charged—

"(1) To his extreme youth when he first entered the service, when during the first years of the war a great deal of demoralization and irregularity in discipline existed, and especially among the Western troops, accustomed to but comparatively little control.

"(2) To the fact, already stated, that your petitioner had no counsel to direct or defend him or to prevent improper admissions or evidence being introduced.

(3) That at the time of the commission of the offense charged, influenced by bad counsel and previous loose discipline observed, your petitioner believed he was engaged in an act of war, instead of an act of plunder as charged by the court.

"(4) Your petitioner says that, after three years of honorable service in the different branches of the Army, in which he endeavored to discharge his duty and in which he earned the pay and bounty due to a soldier, he thinks the punishment of imprisonment and the degradations to which he was subjected are sufficient to have vindicated the honor and dignity of the Army, and that a great and magnanimous Government can as well afford to pardon the foibles of loyal, though doubtless misguided soldiers, who have committed indiscretions in their overzealous desire to punish rebels, as to pardon the rebels of almost every grade who made the necessity of bringing into service such vast armies; and the policy of general amnesty seems now about to be generally adopted."

Accompanying this petition was a paper signed by five citizens of Louisiana, Mo., viz, Edwin Draper, D. F. Brantlinger, postmaster; Edward Smart, late colonel Third Regiment Missouri State Militia Cavalry; S. Angus Bartlett, late captain Company C of that regiment, and H. C. Hardin, "Mo. H. R.," who stated that they were fully satisfied from their acquaintance with the petitioner that, if he had been of more mature age (he states that he was under 16 years of age at date of original enlistment) and better understood the rules and usages of the Army, he would not have incurred such penalty; that since he left the Army he had been a quiet, good citizen, was married to a respectable lady, and was deemed worthy of the clemency of the Executive, and they trusted that, while it was the policy of the Government to extend amnesty and pardon to nearly all persons lately in rebellion against the Government, its clemency would not be withheld from a youth who, after years of honorable service, through want of experience and probably from the bad example of older persons, incurred the penalty of the rigid rules of the Army Regulations.

It being held that it was not in the power of the Executive to set aside an executed sentence of a general court-martial, this application was denied by letter from the office of the Adjutant-General of the Army, dated July 26, 1872.

Respectfully submitted.

F. E. AINSWORTH.
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 574.

GEORGE W. BARR.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 4113.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4113) to grant an honorable discharge to George W. Barr from the Army, adopt the report of the Committee on Military Affairs of the Fifty-first Congress, herewith submitted, and recommend the passage of the bill.

Case of George W. Barr, late of Sixty-fourth New York Volunteers.

RECORD AND PENSION DIVISION, *January 22, 1892.*

The records show that George W. Barr was mustered into service as surgeon Sixty-fourth New York Volunteers, with field and staff of regiment, to date November 20, 1861, to serve three years, and on December 24, 1862, was directed to report to Surgeon George Suckley, United States Volunteers, president of the medical board of examination for the Army, convened under War Department General Orders No. 35, of 1861, then in session in this city, for examination.

January 13, 1863, the medical director of the Army of the Potomac reported to the Surgeon-General of the Army that Surgeon Barr had been examined by the medical board referred to and found incompetent, and requested that his name be dropped from the rolls of the Army for incompetency.

January 19, 1863, the Surgeon-General forwarded a copy of that report and requested that, in compliance with General Orders 35, of 1861, from this Department he be dismissed for incompetency. The request having been approved by the Secretary of War, Surgeon Barr was thereupon dismissed the service in orders of which the following is a copy:

SPECIAL ORDERS, No. 45. } WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE, *Washington, January 23, 1863.*

[Extract.]

* * * * * * *

II. The following officers are by direction of the President dismissed the service of the United States for incompetency: Surgeon G. W. Barr, Sixty-fourth New York Volunteers.

* * * * * * *

By order of the Secretary of War.

L. THOMAS,
Adjutant-General.

The records of the medical board, of which Surgeon George Suckley was president, are not found on the files of this Department, and therefore the character of Surgeon Barr's incompetency has not been ascertained; but in a letter on the files of this Department from the Hon. D. S. Dickinson, dated July 18, 1863, the terms of which are complimentary to Dr. Barr, it is stated that he was dismissed "for alleged intoxication."

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 575.

SURETIES OF DENNIS MURPHY.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 211.]

The Committee on War Claims, to whom was referred the bill (S. 211) for the relief of the sureties of Dennis Murphy, submit the following report.

The facts out of which this bill for relief arise will be found stated in a report made by the Committee on Claims of the Senate, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

Senate Report No. 22, Fifty-second Congress, first session.

Mr. MITCHELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 211.]

The Committee on Claims, to whom was referred the bill (S. 211) entitled "A bill for the relief of the sureties of Dennis Murphy," having had the same under consideration, beg to submit the following report:

A similar bill was reported favorably from this committee on April 9, 1890, accompanied by a report (No. 641, first session, Fifty-first Congress), and passed the Senate June 14, 1890. The report above referred to is as follows and correctly states the facts in connection with this claim:

The Committee on Claims, to whom was referred the bill (S. 1244) for the relief of the sureties of Dennis Murphy, have had the same under consideration, and respectfully report:

That the facts in this case are contained in the report of the House Committee on War Claims made at the first session of the Forty-ninth Congress. The report referred to, which is adopted by this committee, is as follows:

The Committee on War Claims, to whom was referred the bill (H. R. 4811) for the relief of the sureties of Dennis Murphy, report the same back with a favorable recommendation, and in support of their recommendation make the following statement:

Dr. Dennis Murphy, now deceased, was appointed in 1858, with the consent of the Senate, paymaster and military storekeeper at the national armory at Harpers Ferry, Va., and on the 28th of April, 1858, executed the bond required by law in the penalty of $50,000, with Allen C. Hammond, George Seibert, William Megary, and Charles J. Faulkner as sureties. From the date of his qualification to January 1, 1861, the accounts of said Murphy were rendered every quarter to the entire satisfaction of the Government, and with a fidelity and accuracy not to be surpassed in a disbursing officer. His next settlement, for the quarter ending March 31, 1861, was, as appears by the statement of his clerk, promptly made out as usual and signed, but could not be transmitted to Washington because the superintendent of the armory, A. M. Barbour, whose signature was also necessary, was absent attending the Virginia State convention as a member thereof. Said Barbour did not return to Harpers Ferry until after the ordinance of secession had passed and the place in occupancy of the Confederate troops.

The official residence of said Murphy was occupied by the Confederates, and it further appears that, before their evacuation of Harpers Ferry, a subordinate officer, contrary to the orders of General Johnston, broke open the vault containing Murphy's papers and vouchers, and in the evacuation and the subsequent occupation by Federal troops these were scattered and, with a single exception (a pay roll for February, 1861), were lost or destroyed. Said Murphy, on being dispossessed of his house, removed to Winchester, Va., with his family. The above pay roll being found on the street by a citizen of Harper's Ferry was in time forwarded to the Ordnance Department.

In July, 1861, Murphy was removed, and on the adjustment of his accounts a balance stood against him on the books of the Treasury of $57,518.52.

The summaries, however, for each month forwarded to the Ordnance Department by the storekeeper for the months of January, February, and March, 1861, official copies of which have been examined by your committee, reduce this nominal balance to the amount of $10,153.06 on the 31st of March, 1861, which he reports as follows:

In hands assistant treasurer, New York	$8,273.38
In hands depository, Baltimore	1,878.68
	10,153.06

Of the first sum, $5,840.95 remained on April 29, 1861, and was transferred to the Treasury of the United States, and checks for the residue were issued between April 1 and 14, and paid by the depository. Checks for more than the amount reported in the Baltimore depository were also drawn after April 1, 1861.

It will thus be seen that while no legal settlement could be made by the Comptroller allowing said Murphy credit for said nominal balance of $57,518.52 on the books of the Department, there existed in the Department very persuasive evidence that he had fully accounted for the public funds in his hands.

Dr. Murphy lived for some eight or ten years after the war, and was never called on to make any further settlement of his accounts, nor were his sureties ever notified that any settlement was needed. In 1876, while one of said sureties, Mr. Faulkner, was a member of Congress, they were first officially notified that the books of the Treasury showed the above balance due from Murphy. A petition was then filed by Allen C. Hammond, one of said sureties, setting forth substantially the above facts, and praying relief at the hands of Congress. That petition being referred to the Ordnance Department by Hon. A. A. Hardenbergh, the Chief of Ordnance, after stating the facts shown by his office, gave the following opinion:

"In my opinion the sureties of Military Storekeeper Murphy should be relieved from responsibility under their bond."

Mr. Faulkner, being then, as stated, a member of the House, declined to have any action taken looking to his relief. All the sureties of Murphy are now dead, their estates generally settled, and some of them insolvent. Murphy himself died insolvent. In view of all these facts above set forth, in view of the long delay by the Government in notifying the sureties, the utter impossibility of having any settlement now that could be verified and just, it seems to the committee that it is but fair to pass this bill, and relieve the estates of any of the decedents whose estates are solvent of the shadow of this stale claim. This view is the more confirmed by the almost conclusive evidence that there was never anything actually due the Government from Murphy.

The committee approve the indorsement of the Ordnance Department on Hammond's petition and a letter from the present Second Auditor of the Treasury recommending the passage of this bill, and report the same favorably.

Indorsements on letter of the Hon. A. A. Hardenbergh, dated House of Representatives, February 21, 1876, inclosing the memorial of Allen C. Hammond, in behalf of himself and the other securities of Dennis Murphy, and requesting that copies of the letters and papers in the case be furnished.

[First indorsement.]

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, February 28, 1876.

Respectfully submitted to the Secretary of War.

The statements of the petitioners as to the appointment of Dennis Murphy as military storekeeper, the date of his bond, and the prompt and satisfactory rendition of his accounts up to December 31, 1860, are corroborated by the records of this office.

The last regular cash account rendered by Military Storekeeper Murphy was for quarter ending December 31, 1860. His monthly statement of funds received and expended for the months of January, February, and March, 1861, were forwarded, and show a balance on March 31, 1861, of $10,153.06 due the United States (see statement marked A), but no vouchers in support of disbursements since December 31, 1860, have been received except the February pay-roll, found after or about the time of the destruction of Harper's Ferry, and forwarded by this office to Second Auditor.

The last settlement by the Treasury Department known to this office was in 1861, when Military Storekeeper Murphy received credit for the payments made on February roll, amounting to $15,609.49, and a balance of $5,840.95 found to his credit with assistant treasurer, New York, and turned into the Treasury of the United States. By this *last settlement he is shown* to be a debtor to the United States in the sum of *$57,518.52. (See statement* marked B.)

Accompanying are statements showing checks drawn by Military Storekeeper Murphy on assistant treasurer, New York, and depository, Baltimore, from January, 1861, to April, 1861. (See statements marked C and D.)

If all the checks thereon reported were drawn in favor of public creditors, and from the balance shown to be on hand December 31, including remittances after that date, as shown by statement B, it would seem that he had accounted for all the public money intrusted to him.

Copies of his accounts current for quarter ending December 31, 1860, and of his monthly statement of receipts and expenditures for December, 1860, are appended, marked E.

The Second Auditor of the Treasury is charged by law with the examination and settlement of the accounts of ordnance disbursing officers, and with instituting proceedings against delinquents or defaulters.

The official settlements in this case are on file in his office, and it is suggested that these papers can be verified by reference to him. In my opinion the sureties of Military Storekeeper Murphy should be relieved from responsibility under their bond.

S. V. BENÉT,
Brig. Gen., Chief of Ordnance.

[Second indorsement.]

WAR DEPARTMENT,
March 1, 1876.

Respectfully referred to the Second Auditor of the Treasury for his views.
By order of the Secretary of War.

H. T. CROSBY,
Chief Clerk.

[Third indorsement.]

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
March 6, 1876.

Respectfully returned to the War Department. Dennis Murphy, late military storekeeper, Harpers Ferry Armory, rendered accounts, with vouchers, to include December 31, 1860, to this office, through the Ordnance Bureau of the War Department, and a settlement was made July 22, 1861, showing his indebtedness to the United States on the books of this office in the sum of $73,128.01. On July 2, 1861, the Ordnance Office received a roll of hired men for February, 1861, at Harpers Ferry Armory, paid by Dennis Murphy, amounting to the sum of $15,609.49. This roll was referred to me for settlement. On July 26, 1861, said roll was allowed, which reduced Dennis Murphy's indebtedness to the sum of $57,518.52.

The accounting officers of the Treasury can not allow any disbursing officer credit for disbursements made unless vouchers are produced; nor can they relieve sureties from any responsibility of their principals. It is for Congress to afford relief if the wisdom of that body deems it proper.

E. B. FRENCH,
Auditor.

TREASURY DEPARTMENT,
June 29, 1886.

SIR: I have the honor to forward herewith report of the Second Auditor of this date upon H. R. 4811 for the relief of the sureties of Dennis Murphy, in compliance with your request to him of the 25th instant.

Respectfully, yours,

W. E. SMITH,
Assistant Secretary.

Hon. WILLIAM L. WILSON,
House of Representatives.

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
Washington, D. C., June 29, 1886.

SIR: I am in receipt of your favor of the 25th instant, asking me to examine House bill 4811 for the relief of the sureties of Dennis Murphy and give my opinion as to the justice of and necessity for passing the same. As my opinion will be governed by the facts in the case, I will recite as briefly as possible such as appear to be material, which are as follows:

Dennis Murphy was appointed military storekeeper of ordnance April 7, 1858, and gave bond in the penal sum of $50,000, his sureties being Allen C. Hammond, George

Seibert, William McGary, and Charles J. Faulkner, all then of Berkeley County, Va. He was on duty as paymaster at Harpers Ferry Armory until about the time that establishment was set on fire and abandoned by United States troops, April 18, 1861, and was summarily dismissed July 19, 1861, for failure to render his accounts. The last complete accounts received from him were for the quarter ending December 31, 1860. On final settlement a balance of $57,518.52 was declared to be due from said Murphy and still stands against him on the books of this office, though there is reason to believe that if his accounts had been promptly rendered it would have been found that he had expended nearly all the public money for which he is held accountable in defraying the current expenses of the armory.

In April, 1862, the Second Comptroller requested that Murphy's accounts be prepared for suit, but the request does not appear to have been complied with; probably neither Murphy nor his sureties could then have been reached by process of law. In December, 1875, the Auditor called the Comptroller's attention to the condition of the accounts, and was instructed to make demand upon Murphy's sureties. This was done, but only one responded, namely, Hon. Charles J. Faulkner, then a Representative in Congress, who stated that while he remembered having recommended Murphy's appointment, he had no recollection of having become a surety upon his official bond. Mr. Faulkner called at this office several times, and at his request action was suspended in order that he might obtain relief from Congress. Nothing seems to have been done until after Mr. Faulkner's death, in November, 1884, when demand was made upon the administrators of his estate. The bill now before me is no doubt the result of that demand.

It is stated that Murphy was possessed of considerable property in West Virginia, which he sold after the war and entered into business in Baltimore, where he died insolvent about the year 1873. William McGary is also said to be dead. No information as to Allen C. Hammond and George Seibert is on record, but an impression seems to have prevailed that Mr. Faulkner, who was reported to be worth between $200,000 and $300,000, was the only responsible surety.

Assuming that it was impossible to force a settlement with Murphy or his sureties during the war, the following facts remain:

1. Although eight years elapsed between the close of the war and Murphy's death no attempt was made to obtain a settlement with him. He was not even notified of the condition of his accounts.

2. The sureties were not notified that their principal was in default until more than seventeen years after the date of the bond and more than ten years after the close of the war—he, in the meantime, having died insolvent. Altogether, more than twenty-five years have been suffered to pass since the principal became in default without decisive action on the part of the Government.

In view of these facts I am of opinion that the sureties on the official bond of Dennis Murphy may justly be released from all liability by reason of such suretyship.

With regard to the necessity of passing the accompanying bill, I would say that, with the exception of section 3469, Revised Statutes, which authorizes the Secretary of the Treasury to accept offers of compromise under certain circumstances, there is no law under which the sureties of a defaulting military disbursing officer can be released from their liability. As laches can not be imputed to the Government, no matter how long a case may have been neglected, and as there is no general statute of limitation touching official bonds, the sureties of Dennis Murphy must obtain special relief from Congress or pay the penalty.

In this connection I respectfully invite attention to the fact that there are statutes prescribing limitations on suits against the sureties of certain classes of disbursing officers. For example, no suit on a United States marshal's bond can be maintained unless it be commenced within six years after the right of action accrues (section 786, Revised Statutes), and suit on the bond of a postmaster must be commenced within three years after the close of his accounts, otherwise the sureties are not liable. (Section 3838, Revised Statutes.)

A general statute of limitations on this subject is desirable.

Very respectfully,

WM. A. DAY, *Auditor.*

Hon. WM. L. WILSON, *House of Representatives.*

Your committee adopt the foregoing report both as to statement of facts and conclusions, and report back bill S. 211 and recommend its passage.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 576.

EDWARD CAHALAN.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, of Missouri, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 7021.]

The Committee on War Claims, to whom was referred the bill (H. R. 6498) for the relief of Edward Cahalan, respectfully report:

The claim arises under the following circumstances: In 1864 Edward Cahalan was master and owner of the steamboat *John H. Dickey*. On the 3d of November of that year the boat was impressed into the service of the United States by order of Maj. Gen. Canby. The boat thereupon proceeded as directed to the mouth of the White River and reported for duty to Capt. Martin, A. Q. M. and master of transportation. On the 9th day of January, 1865, the boat, being still in the service of the Government, while descending the Mississippi River at a point about 20 miles below Vicksburg, collided with the United States steamer *John Raines*, and sustained very considerable damage in consequence, so much so that the boat had to be towed back to St. Louis.

On February 22, 1865, by order of Maj. Gen. Dodge, a board of survey was directed to investigate the facts relative to the collision above referred to. This board reported, but having failed to adduce sufficient evidence to clearly fix the responsibility of the collision, were directed to again convene and make a further investigation into the circumstances. Another report was made by the board finding the officers of the *John Raines* to blame for the collision. The agents of the Government at first proposed to repair the damages to the steamer *John H. Dickey*, but finally concluded to turn over the boat to the claimant and pay him $4,173.60. The claimant received the money under protest, claiming that the damage was considerably greater.

Subsequently he instituted in the Court of Claims suit for the per diem for the ninety-eight days' use of the boat, and also for some small items of towage. In the court he received judgment for $275 on account of the towage, but the item for the per diem was disallowed.

The proof shows that the steamer *John H. Dickey* was impressed into the Government service November 3, 1864, and was kept in that service until June 7, 1865, but the claimant was only paid to March 1, 1865. The boat was carried on the Government rolls down to June 7, 1865, as a steamer hired by the Government. If he was entitled to be paid for the detention of the boat from November 3, 1864, to March 1, 1865, he was equally entitled to be paid to June 7, 1865. The only *rational date at which* pay should cease was the date when detention

ceased, namely, June 7, 1865. That was the date when the Government gave up the control of the boat and restored it to the owner.

Your committee is of opinion that the claimant should be paid for the use and detention of the boat from March 1, 1865, to June 7, 1865, at $104.34 per diem, and report herewith a bill as a substitute for the bill referred to them, and recommend its passage.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 577.

SAMUEL WARRENDER.

MARCH 9, 1892.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2444.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2444) for the relief of Samuel Warrender, having considered the same respectfully report:

The committee has examined the evidence presented with this case and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill. The report of the War Department on this case printed herewith as a part of this report.

The committee recommend that the bill do not pass.

WAR DEPARTMENT,
Washington City, January 6, 1892.

SIR: In compliance with your request of yesterday (received to-day) for a transcript of the record in the case of Samuel R. Warrender, late member of Company A, Eighty-second New York Volunteers, I am directed by the Acting Secretary of War to furnish you with the following information in the case:

The records show that Samuel Warrander, a private of Company A, Eighty-second New York Volunteers, was enrolled on September 15, 1861, to serve three years.

He received medical treatment in the regimental hospital from June 18 to 27, 1862, on account of a gunshot wound (nature not stated); was admitted to a hospital at Washington, D. C., as a convalescent, on July 4, 1862, and he is reported on the records of that hospital as having deserted on July 7, 1862. Subsequent to the latter date he never returned to the hospital or to his command, although he owed service to June 25, 1864, and his final record is, therefore, that of a deserter.

On November 9, 1891, this man applied for a certificate of service in lieu of his lost discharge, which he claimed to have received at Washington, D. C., about June, 1862, on account of a gunshot wound of the left hand, received about June 1, 1862. (His regiment was engaged at Fair Oaks, Va., May 31 and June 1, 1862.)

It appears from the report of the examining surgeons of the Bureau of Pensions in this case, dated October 7, 1891, that the third finger of the man's left hand had been amputated above the middle joint, and also that the extension of the forearm is imperfect. In connection with the latter defect he stated, in support of his claim for pension, that upon receiving his wound in June, 1862, and while on the way to the James River, he fell from a fence and broke the arm, but the medical record in his case fails to show that he suffered from the effects of such injury, the gunshot wound being the only disability for which he appears to have received treatment; and the fact that on July 4, 1862, he was admitted to a hospital as a convalescent indicates that his speedy return to active military duty had probably been determined upon by the medical authorities at the time of his desertion.

In the absence of any record or other evidence proving that he suffered a fracture of an arm in the line of duty, and of any satisfactory testimony showing that on account of such disability he was prevented from completing his term of enlistment, the charge of desertion can not be removed under existing law, and he is therefore not entitled to an honorable discharge. His authorized attorney, Mr. H. B. Taylor, of Mooers, N. Y., was so informed under date of December 11, 1891, since which date the status of the case has not been changed either by the introduction of new testimony or by legislation.

Very respectfully,

F. C. AINSWORTH,
Major and Surgeon U. S. Army.

Hon. GEORGE VAN HORN,
House of Representatives.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 578.

JOHN W. GASSETT.

MARCH 9, 1892.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2528.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2528) for the relief of John W. Gassett, having considered the same, respectfully report:

The committee has examined the evidence presented with this case and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill. The report of the War Department on this case, printed herewith as a part of this report.

The committee recommend that the bill do not pass.

Case of John W. Gassett (John Gossett) late of Company I, Third Illinois Cavalry.

RECORD AND PENSION DIVISION, *February 3, 1892.*

John Gossett was enrolled as a private March 7, 1865, at Dixon, Ill., and mustered in March 8, 1865, as a recruit for the Third Illinois Cavalry. He was forwarded to the regiment March 15, 1865, and joined Company I April 13, 1865, at Eastport, Miss.

On the muster roll of company for March and April, 1865, he is reported present; for May and June, 1865, absent without leave; and for July and August, 1865, deserted at St. Louis, Mo., June 4, 1865.

He did not thereafter return to his company, which was retained in service until October 10, 1865.

This case is not embraced within the provisions of the act of Congress approved March 2, 1889, the soldier not having served six months prior to May 1, 1865.

No testimony has been presented in this case.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 579.

JAMES BAMFIELD.

MARCH 9, 1892.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2498.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2498) for the relief of James Bamfield, having considered the same, respectfully report:

The committee has examined the evidence presented with this case, and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill. The report of the War Department on this case is printed herewith as a part of this report.

The committee recommend that the bill do not pass.

Case of James Bamfield, alleged late private Company F, One hundred and tenth Illinois Volunteers.

RECORD AND PENSION DIVISION, *January 26, 1892.*

The name James Bamfield is not borne on the rolls of Company F, One hundred and tenth Illinois Volunteers, but it appears from the records that one James Barnfield was enrolled as a private in said company and regiment, August 15, 1862, to serve three years, and mustered into service September 11, 1862.

He appears to have served faithfully until March, 1863, when he is reported to have deserted at Readyville, Tenn. The muster roll of the company for March and April, 1863, reports his desertion March 8, 1863; other records give March 2, 1863, as the date of desertion.

There is no record of his arrest or return from desertion.

The medical records afford no information in the case.

In February, 1887, Hon. R. W. Townshend referred to the Department a letter from the soldier asking removal of the charge of desertion standing against him, and in reply was informed that it was essential to a satisfactory consideration of the case that the physical inability of the applicant to perform the duties of a soldier at the date he absented himself from military control be established by satisfactory testimony; and that his physical inability to return to his command, or to place himself under military control, at any time from the date he absented himself to August 15, 1865 (date of expiration of his term of enlistment), must be established by the testimony of reliable and disinterested parties (preferably that of his attending physicians), who could testify from personal knowledge of the facts claimed.

In response, there was submitted an affidavit by J. H. Wilkey, M. D., of Moores Prairie, Ill., dated March 9, 1887, in which Dr. Wilkey stated that he was a practicing physician of forty years' standing, and the family physician of claimant, James Barnfield; that he treated him, on or about the 15th of March, 1863, for chronic diarrhea and disease of the kidneys, and for disease of the eyes up to August 15, 1869, and that claimant was physically unable to return to his command or to place

himself under militarv control at any time from March 15, 1863, until August 15, 1865.

On the 19th of August, 1887, the applicant was informed, through his attorney, that the official record was clear that after less than seven months' service he deserted his command on March 2, 1863, and that thereafter he neither rejoined it (although his term of service did not expire until August 18, 1865) nor reported his whereabouts or the cause of his absence to the proper United States military authorities; and that upon this record, and notwithstanding the evidence of Dr. Wilkey, who claimed to have been applicant's physician, and to have treated him from March, 1863, to 1869, the application must be denied under the law governing the subject.

On the 7th January, 1888, the following additional testimony was submitted, through Hon. Mr. Townshend:

Carrol Payne, late first lieutenant Company F, One hundred and tenth Illinois Volunteer Infantry, in an affidavit dated December 9, 1887, declared that he was well and intimately acquainted with claimant; that during the month of December, 1862, the soldier was suffering with chronic diarrhea, contracted, in affiant's judgment, on the march from Louisville, Ky., to Nashville, Tenn.; that during the month of December, 1862, the regiment was in camp near Nashville, Tenn., and that claimant was then unfit for military duty on account of said disease.

Isham C. Taylor, aged 61 years, of Benton, Franklin County, Ill., in an affidavit dated December 9, 1887, stated that he was well acquainted with the soldier and knew he was sick and not able for military duty on or about January 1, 1863, while at Stone River, at the battle there; that, soon after, affiant was taken sick and had no recollection of seeing claimant again until he got home. (Affiant signed as "First Lieut. Isham C. Taylor.")

The records show that affiant Carrol Payne was present on the march to Nashville, was in hospital at Nashville after December 26, 1862, and resigned February 12, 1863; also that affiant Isham C. Taylor was present with his company during the period in question, and that he held the rank of sergeant, and was subsequently an officer.

On the 3d of May, 1888, the case was referred to the Sergeon-General of the Army, with a request for an opinion as to whether or not it was probable from the record and evidence that the applicant was prevented from completing his term of enlistment by reason of disease contracted in line of duty, and on the 12th of the same month the papers in the case were returned by that officer with an opinion to the effect that the soldier was not so prevented from completing his term of enlistment.

On the 26th of May, 1888, Mr. Townshend was informed that the testimony adduced to show that the soldier was prevented from returning to military control from March 2, 1863 (date of his reported desertion), to August 15, 1865, when his term of enlistment expired, was deemed insufficient, and that the application must be again denied; also that the decision of the Department was based in part upon the professional opinion of the Surgeon-General of the Army, to whom the case had been referred.

On the 8th December, 1888, the following testimony was furnished through the Commissioner of Pensions:

Z. Hickman, M. D., of Benton, Ill., under date June 19, 1888, testified that he was assistant surgeon of the One hundred and tenth Illinois Volunteers from September 11, 1862, to March 1, 1863, and that he treated applicant for chronic diarrhea, he thinks, in December, 1862, while the command was at Nashville, and also treated him, he thinks, during the battle of Stone River, for diarrhea and inflammation of the eyes; that on the second or third day of said battle applicant was sent back to hospital by reason of being sick with diarrhea; that claimant afterwards came to the regiment at Readyville, Tenn., and that he was still sick and weak from general debility caused by diarrhea when affiant left the regiment, March 1, 1863.

On December 11, 1888, the application was again denied for the reasons already given.

Isham Harrison, late lieutenant Company C, One hundred and tenth Illinois Volunteers (subsequently incorporated with Company F), in an affidavit made January 15, 1889, stated that he was acquainted with claimant, and with his condition while at Readyville, Tenn., about March 1, 1863, the soldier being then in poor health and not able for duty; that claimant was a good soldier, ready and willing to do duty when called upon when he was able.

On the 8th of February, 1889, the claimant was informed that the testimony submitted did not warrant a change of the official record, his being "in poor health" being no excuse for deserting, and that the former adverse decisions must be adhered to.

Under date June 20, 1891, the soldier presented, through other attorneys, a new application for removal of the charge of desertion and for an honorable discharge, stating that he left the command at Readyville, Tenn, in the month of March, 1863, by reason of sickness, and that his physical condition was such that he was unable to return.

On the 24th of the same month applicant was informed that his case had been fully considered and his application denied under the act of Congress approved July 5, 1884, and that inasmuch as the provisions of the act of Congress approved March 2, 1889, did not change the status of his case in any respect, the adverse decision of the Department thereon must be adhered to. It was added that the numerous adverse decisions in the case were based upon the insufficiency of the testimony to establish that the soldier was prevented from completing his term of enlistment by reason of disease contracted in line of duty.

Under date August 11, 1891, the attorneys in the case addressed a letter to the Secretary of War, with a request that he would personally consider the application of the soldier, and on the 14th of that month were informed that (in accordance with their request) the Acting Secretary of War had personally reviewed the case, but declined to remove the charge of desertion.

Since the date of that communication the status of the case has not been changed either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

WEBBS HILL, ILL., *December 2, 1891.*

DEAR SIR: I inclose you herewith my petition to Congress for the removal of the charge of desertion against me as private in Company F, One hundred and tenth Regiment Illinois Volunteers; also letter of recommendation from Judge Browning and others, and a bill which I kindly ask you to introduce and have passed for my relief. You will find on file in the War Department affidavits from my officers and neighbors showing that I was sick when I absented myself from command and was unable to return; also affidavits to the same effect on file in the office of the Commissioner of Pensions, in claim No. 431712, to which I direct your attention.

Will you kindly give this your prompt attention and write me what you can do for me?

Yours, truly,

JAMES BARNFIELD.

Hon. J. R. WILLIAMS, M. C.,
Washington, D. C.

To the Congress of the United States:

Your petitioner, James Barnfield, respectfully represents unto your body that he is a native-born citizen of the United States, aged 55 years. That he now is and for more than forty years last past has been a bona fide resident of Webbs Hill, in Franklin County, Ill. That on the 15th day of August, 1862, at Franklin County, Ill., he enlisted as a private in Company F, One hundred and tenth Regiment Illinois Volunteers, for three years. That there now appears on the records of the War Department against him the charge of desertion at Readyville, Tenn., on March 2, A. D. 1863.

Your petitioner verily believes that in justice to him he ought to be relieved from said charge of desertion, which the Secretary of War has refused to do under the rules of that Department, and in support of this application he refers to the affidavits of his officers, comrades, and neighbors, now on file in the War Department, and also to affidavits now on file in his claim (No. 431712) for pension in the office of the Commissioner of Pensions.

Wherefore he humbly prays your honorable body that by special act you relieve him from said charge of desertion, and he will ever pray, etc.

Dated at Webbs Hill, Ill., November 25, A. D. 1891.

JAMES BARNFIELD.

BENTON, ILL., *December 2, 1891.*

DEAR SIR: We have been intimately acquainted with James Barnfield, late a private in Company F, One hundred and tenth Regiment Illinois Volunteers, for many years last past. He has resided at Webbs Hill, in this (Franklin) county, for

nearly forty years, and has always maintained a good character for integrity, industry, and loyalty, and we believe that the charge of desertion now standing against him should be removed; and any assistance that you can render him will be appreciated by us; and you may use this letter in his interest if you deem proper.

Yours, respectfully,

CARROL PAYNE,
Late First Lieutenant Company F,
One hundred and tenth Regiment Illinois Volunteer Infantry.
D. M. BROWNING.
R. H. FLANNIGAN.
A. M. BROWNLEE,
Editor Standard.
T. M. MOONEYHAM.
W. R. WARD.
W. B. WEBB.

Hon. J. R. WILLIAMS, M. C.,
Washington, D. C.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 580.

ISAAC WILLIAMS.

MARCH 9, 1892.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2518.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2518) for the relief of Isaac Williams, having considered the same, respectfully report:

The committee has examined the evidence presented with this case and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill. The report of the War Department on this case printed herewith as a part of this report.

The committee recommend that the bill do not pass.

Case of Isaac Williams, Company G, Fifteenth Illinois Volunteers.

RECORD AND PENSION DIVISION, *February 3, 1892.*

A report in this case was furnished the House Committee on Military Affairs on House bill 5955, Forty-ninth Congress, first session, on March 19, 1886, of which the following is a copy, towit:

"Isaac Williams was enrolled March 2, 1865, to serve one year in company G, Fifteenth Illinois Volunteers, and on muster roll of said company for March and April, 1865, he is reported 'absent sick (since) April 15, 1865, Goldsboro, N. C.'; on roll for May and June, 1865, he is reported as 'present,' and on muster-out roll of company, dated September 16, 1865, as 'deserted at Fort Leavenworth, Kans., July 18, 1865.'

"The following is a synopsis of evidence presented to this office in 1884 with a view to the removal of the charge of desertion against this soldier, to wit:

"Applicant (Williams) testified that in May, 1865, he was sent to hospital at Goldsboro, N. C., and remained there about three weeks; that when he recovered he rejoined his regiment at Washington, D. C., and proceeded with it to Fort Leavenworth, Kans.; that on July 16, 1865, he went home, as he was in bad health and unable to do duty.

"James Barnfield and Daniel Ward, neighbors, testified that when Williams re turned home, about July 20, 1865, 'he was diseased in his lungs and had a cough until September 16, 1865, and is so yet'; that his health was such that he was not able to report in person to the nearest military post or hospital from July 30, 1865, to September 16, 1865.

"The application for removal of the charge of desertion was denied by this office on the ground that such charge was not erroneously made and that the act of Congress approved July 5, 1884, did not cover the case, as the soldier had not served six months in the army prior to desertion; besides, the evidence was not sufficient to establish that he was prevented from completing his term of enlistment by reason of disease incurred in line of duty."

Since the foregoing report was rendered additional testimony has been presented as follows:

On June 7 and July 19, 1889, the soldier testified that he was taken sick about *June 1, 1865, at Goldsboro, N. C.,* and was placed in a hospital, where he remained

three or four weeks; that when he got a little better he went to his regiment, then at Washington, D. C., but was not able for duty, nor was he put on duty as long as he remained with the regiment; that he left his command about July 18, 1865, intending to return as soon as his health permitted him, but was not able to go back, and for a year afterwards he was unable to do any kind of work. (Medical records show him admitted to hospital at New Berne, N. C., April 25, 1865, with chronic bronchitis, and returned to (*i. e.*, pronounced fit for) duty on April 28, 1865.)

Two comrades testify to the soldier's inability to rejoin his command on account of sickness after he left the same in July, 1865.

James H. Wilky, M. D., on July 9, 1889, testified that he treated the soldier on his return home from the Army, about August, 1865, "for disease of the lungs and liver complaint," and continued to treat him occasionally up to 1869; that to the best of affiant's recollection the soldier was not fit to perform military duty up to September 15, 1865.

This additional testimony was not accepted as sufficient to warrant a removal of the charge of desertion under the act of Congress approved March 2, 1889, and the application was again denied August 20, 1889. Since that date the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 581.

ROBERT MOORE.

MARCH 5, 1892.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2530.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2530) for the relief of Robert Moore, having considered the same, respectfully report:

The committee has examined the evidence presented with this case, and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill. The report of the War Department on this case is printed herewith as a part of this report.

The committee recommend that the bill do not pass.

Case of Robert Moore, late of the Thirty-first Regiment Illinois Infantry Volunteers.

RECORD AND PENSION DIVISION, *February 3, 1892.*

A report in this case was furnished the Committee on Military Affairs, House of Representatives, on House bill No. 1241, Fifty-first Congress, second session, January 23, 1891. Following is a copy:

"The records show that Robert Moore was enrolled September 19, 1861, and mustered in as private, Company E, Thirty-first Illinois Volunteers, April 20, 1862; and as second lieutenant, same company, to date from May 21, 1862. He is reported present or is otherwise properly accounted for on all rolls and returns from enrollment to December 31, 1862. Company roll for January and February, 1863, shows him 'Deserted February 23, 1863, at Memphis, Tenn.;' the same remark appears on roll dated April 11, 1863; regimental return for January, 1863, shows him 'Absent without leave,' and return for February, 1863, 'Deserted January 24, 1863.' His name is dropped from subsequent rolls and returns.

"He was dismissed the service to date March 23, 1863, in special orders from this Department, of which the following is a copy:

SPECIAL ORDERS, No. 197. } WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE, *Washington, May 1, 1863.*

[Extract.]

* * * * * * *

4. The following officers (published officially March 23, 1863,) having failed to appear before the military commission instituted by Special Orders, No. 53, current series, within the prescribed time, are hereby dismissed the service of the United States, for the offenses set opposite their respective names, to date March 23, 1863:

Second Lieut. Robert Moore, Thirty-first Illinois Volunteers, for desertion.

* * * * * * *

By order of the Secretary of War.

E. D. TOWNSEND,
Assistant Adjutant-General.

The following is a copy of the paper, with indorsements thereon, upon which his order of dismissal was based:

HDQRS. THIRTY-FIRST REGIMENT ILLINOIS INFANTRY VOLUNTEERS,
FIRST BRIGADE, THIRD DIVISION, SEVENTEENTH ARMY CORPS,
Memphis, Tenn., January 26, 1863.

W. BEDFORD,
Assistant Adjutant-General:

Robert Moore, second lieutenant of Company E, Thirty-first Regiment Illinois Volunteer Infantry, having deserted his company and regiment without leave of his commanding officer, on or about the 24th day of January, 1863, after being warned of the evil consequences of such a step, and while the tender of his resignation was before the commanding general for consideration, and the shameful and disgraceful precedent before the men, at a time when it takes all the energy and skill of officers to keep order and quiet in camp.

I therefore respectfully ask that the said Second Lieut. Robert Moore, of Company E, Thirty-first Regiment Illinois Infantry Volunteers, be dishonorably dismissed the service the United States, and if his resignation has been accepted that the same be revoked and he be dismissed the service with a loss of all pay and allowances in either case.

L. OZBURN,
Colonel, Commanding.

[First indorsement.]

HEADQUARTERS FIRST BRIGADE, THIRD DIVISION,
SEVENTEENTH ARMY CORPS,
February 5, 1863.

Respectfully referred to Division Headquarters.

J. N. HAYNIE,
Brigadier-General, Commanding Brigade.

[Second indorsement.]

HEADQUARTERS THIRD DIVISION,
SEVENTEENTH ARMY CORPS,
Memphis, February 8, 1863.

Approved and respectfully forwarded.

JOHN A. LOGAN,
Brigadier-General, Commanding.

[Third indorsement.]

HEADQUARTERS SEVENTEENTH ARMY CORPS,
Memphis, Tenn., February 13, 1863.

An investigation of this case will be ordered by Brig. Gen. Logan forthwith, and a full report sent to these headquarters, that the proper order may be issued.

By order of Maj. Gen. McPherson:

WM. T. CLARK,
Assistant Adjutant-General.

[Fourth indorsement.]

HEADQUARTERS THIRD DIVISION, SEVENTEENTH ARMY CORPS,
February 14, 1863.

I have investigated this case and find the facts as stated by Col. Ozburn. It would be improper to try him by court-martial, as suggested in your note, as he is absent still and will be until the end of the war. I ask that he be at once mustered out of service without pay or allowances.

JOHN A. LOGAN,
Brigadier-General.

[Fifth indorsement.]

HEADQUARTERS SEVENTEENTH ARMY CORPS,
Memphis, Tenn., February 17, 1863.

Respectfully forwarded and attention called to the indorsement of Gen. Logan of the 14th instant.

JAS. B. MCPHERSON,
Major-General.

[Sixth indorsement.]

HEADQUARTERS, DEPARTMENT OF THE TENNESSEE,
Young's Point, La., February 28, 1863.

Approved and respectfully forwarded to the headquarters of the Army, Washington, D. C.

U. S. GRANT,
Major-General.

"Under date of December 23, 1882, Mary A. Sheridan, the widow of this officer, applied to this Department for the removal of the charge of desertion from his record, and upon call from this Department filed her sworn statement, dated August 29, 1888, to the effect that Lieut. Moore came home sick with diseased lungs, without a furlough, but by permission of his captain; that it was thought that he would soon get well, but instead he grew worse from day to day, and was therefore unable to return to his command; and that he finally died with said disease, July 4, 1868.

"She also submitted an affidavit of J. T. Vaught, late lieutenant, Eighty-seventh Illinois Volunteers, dated August 30, 1888, to the effect that he was intimately acquainted with Lieut. Moore from July, 1865, to the date of his death in 1868; and knew that he was suffering with something like disease of the lungs during that period.

"In reply to her application she was informed by letter from this Department, dated September 14, 1888, that 'it is held to be beyond the power of this Department to afford any relief in cases of this character, as there is no authority of law to revoke the dismissal of an officer and grant him an honorable discharge.' * * * A like reply was made November 6, 1889, to a similar application filed by Messrs. Soulé & Co., attorneys, Washington, D. C."

The status of the case has undergone no change since the date of the report quoted above.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 582.

THOMAS D. WAGNON.

MARCH 9, 1892.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2519.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2519) for the relief of Thomas D. Wagnon, having considered the same, respectfully report:

The committee has examined the evidence presented with this case and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill. The report of the War Department on this case, printed herewith as a part of this report.

The committee recommend that the bill do not pass.

Case of Thomas D. Wagnon, late of Company E, Eighth Kentucky Cavalry.

RECORD AND PENSION DIVISION, *February 4, 1892.*

Thomas D. Wagnon was enrolled as a private in Company E, Eighth Kentucky Cavalry, August 13, 1862, to serve one year, and mustered into service September 13, 1862.

He appears on the company muster rolls as present or otherwise properly accounted for until January 14, 1863, when he is reported as having deserted at Hopkinsville, Ky., taking horse, saddle, bridle, and arms.

He never returned to his command, which was retained in service until September 23, 1863, or reported his whereabouts or the cause of his absence to the proper military authorities of the United States.

On the 8th of February, 1886, Hon. D. W. Voorhees, United States Senator, referred to the Department a letter from the soldier in which application was made for removal of the charge of desertion, and on the 19th of the same month Senator Voorhees was informed, in reply, that inasmuch as the applicant did not serve six months in the Army prior to his desertion, and never returned to his command, his case did not come within the provisions of the act of Congress approved July 5, 1884; and as it was held that the charge against him was not erroneously made, it was decided that there was no provisions of law under which the application could be granted, and it was therefore denied.

In March, 1887, and in August, 1888, the soldier again made application for amendment of his record, but in neither instance was any testimony presented.

In a letter to the Department dated December 22, 1888, however, he stated that while the regiment was in camp at Hopkinsville, Ky., he went on a visit to a relative and was captured, but he offered no testimony in palliation of his abandonment of the service.

The records do not afford any evidence of his alleged capture.

In an affidavit dated April 10, 1890, the soldier stated that when in camp at Hopkinsville, Ky., he went on a visit to a relative and was taken prisoner, and that near Dallas, Tex., he effected his escape and went to California, where he remained until 1868, and was consequently not present with his command when it was mustered out of service.

On the 16th of April, 1890, the claimant was informed, through his attorneys, that, as there was no record of his capture by the enemy and as his own statement showed him to have been a willful deserter, there was no authority of law under which the charge of desertion could be removed.

On the 17th June, 1891, the President referred to the Department a letter from the claimant (without date) asking a reconsideration of his case, and on the same day the soldier was again informed that there was no authority of law under which the charge of desertion could be removed, and that as no testimony had been presented since April, 1890, to justify a reversal of the adverse decision of the Department then rendered the application was again denied.

Since the date of that communication the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 583.

CHARLES WHITHAM.

MARCH 9, 1892.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2445.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2445) for the relief of Charles Whitham, having considered the same, respectfully report.

The committee has examined the evidence presented with this case and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill. The report of the War Department on this case, printed herewith as a part of this report.

The committee recommend that the bill do not pass.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 23, 1892.

SIR: In reply to your verbal request for the military record of Private Charles Whitham, late Battery F, Fifth U. S. Artillery, I have the honor to inform you that the records of this office show that Private Charles Whitham, Battery F, Fifth U. S. Artillery, enlisted February 23, 1864, deserted October 18, 1865, and never returned to the service.

The Department is not empowered under act of March 2, 1889, the only law on the subject now in force, to remove the charge of desertion.

Mr. Whitham was informed by this office through his attorney of the above, October 2, 1891, and on October 22, 1891, he was furnished on his own request a "deserter's release" under G. O. 55, A. G. O., 1890, copy inclosed, thus closing his military record.

Very respectfully,

J. C. GILMORE,
Assistant Adjutant-General.

Hon. GEORGE VAN HORN,
House of Representatives.

STATE OF NEW YORK, *Otsego County, ss:*

Charles Whitham, of the town of Richfield, Otsego County, State of New York, being duly sworn, says he enlisted on the 23d day of February, 1864, at the city of New York, as a private in the regular Army of the United States and entered upon his duty as a soldier, and remained in service of the United States Army until the month of October 18, 1865, which was after the close of the late civil war.

Deponent further says that in June, 1865, he obtained a furlough at Richmond, Va., for twenty days to enable him to return to his home in Richfield. That at the expiration of the time stated in the furlough this deponent returned to Fort Hamilton, the headquarters of the regiment to which he belonged. That deponent remained at Fort Hamilton until the fall of 1865. That while deponent was in the service and in line of duty he was thrown from a horse, the result of which was a severe rupture

or hernia. That deponent was examined by the surgeon at Fort Hamilton, and advised by said surgeon that he was disabled and unfit for further military duty.

Deponent further says that he remained at said fort for several weeks thereafter acting as a clerk. That afterwards this deponent was advised by the surgeon who examined him to go home, and that he would procure his discharge. That this deponent returned to his home in the town of Richfield, and resided there ever since with his family entirely unmolested.

Deponent further says that he was disabled while in service, as herein stated, and is still suffering from said injury. That when he left Fort Hamilton he was aware of the fact that the war had closed, and relied upon the advice of the surgeon that he would be discharged, and that he would procure him a discharge, and that deponent left and went to his home not with the intent of deserting, but acted in good faith. That his departure from Fort Hamilton and service in the Army has never been questioned except in the failure to give this deponent an honorable discharge.

Deponent says he is a laboring man with a family, and has no means of support except what he can earn at times by daily toil.

Deponent further says he sincerely wishes and believes he is fairly entitled to an honorable discharge.

Deponent further says that he was enrolled in Company A, 5th U. S. Regiment of Artillery.

CHARLES WHITHANY.

Subscribed and sworn to before me this 31st day of Dec., 1891.

JAS. A. STORER,
[SEAL.] *Notary Public, Otsego Co., N. Y.*

[Extract from Army Regulations, edition 1861.]

Par. 190.—Furloughs will be granted only by the commanding officer of the post, or the commanding officer of the regiment actually quartered with it. *Furloughs may be prohibited at the discretion of the officer in command.*

Par. 191.—Soldiers on furlough shall not take with them their arms or accoutrements.

To all whom it may concern:

The bearer hereof, Charles Whithane, private of Capt. R. B. Ayres' company of the 5th Regiment of United States Artillery, aged 28 years, 5 feet 10¼ inches high, dark complexion, dark eyes, black hair, and by profession a machinist; born in England, and enlisted at New York city in the State of New York, on the 25 day of February, 1864, to serve for the period of three years, is hereby permitted to go to Herkimer, in the county of Herkimer, State of New York, he having received a furlough from the 28th day June, 1865, to the 18th day of July, 1865, at which period he will rejoin his company or regiment at Richmond, Va., or wherever it then may be, or be considered a deserter.

Subsistence has been furnished to said Charles Whithane, to the 28th day of June, and pay to the 31st day of December 1864, both inclusive.

Given under my hand at ——, this —— day of ——, 18—.

SAM. S. ELDER,
Captain 1st Arty., Commanding Arty. Brig., 24th A. C.

Transport. furnished from Richmond to Baltimore, Md. Fare $8.00.

WM. H. D. COCHRAN,
Maj. and Q. M.

Per S. W. D.

HEADQUARTERS 24TH ARMY CORPS,
Richmond, Va., June 26th, 1865.

Fulough granted for twenty (20) days.
By command of Major-General Gibbon.

EDWARD MOALE.
Asst. Adjt. Genl.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 584.

HUGH FERRELL.

MARCH 9, 1892.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2531.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2531) for the relief of Hugh Ferrell, having considered the same, respectfully report:

The committee has examined the evidence presented with this case, and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill. The report of the War Department on this case is printed herewith as a part of this report.

The committee recommend that the bill do not pass.

Case of Hugh Ferrell, late private Company K, Ninety-fourth New York Volunteers.

RECORD AND PENSION DIVISION, *February 3, 1892.*

A report in this case was furnished the Committee on Military Affairs, House of Representatives, on H. R. bill No. 12708, Fifty-first Congress, second session, January 23, 1891. Following is a copy:

"The official records show that this soldier was enrolled February 19, 1862, under the name of Hugh Farrel, for the period of three years, and that he served faithfully in the above-named organization until August 30, 1862, when he was wounded in the knee at the battle of Bull Run, Virginia. On September 29, 1862, he was admitted to Eckington general hospital, Washington, D. C., with gunshot wound, and subsequently was returned to his regiment, date not shown. He entered general hospital, Ladies' Home, New York City, November 9, 1862, with neuralgia, and deserted March 17, 1863.

"Thereafter he did not return either to hospital or to his command, the latter being retained in service until July 18, 1865; nor did he report his whereabouts or the cause of his absence to the proper military authorities of the United States.

"No testimony has ever been presented to this Department looking to the removal of the charge of desertion standing against the record of this soldier, and in its absence his status under existing law can not be determined."

Since the date of that report the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted,

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 588.

JOHN M. BUTLER.

MARCH 9, 1892.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2457.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2457) for the relief John M. Butler, having considered the same, respectfully report:

The committee has examined the evidence presented with this case, and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill. The report of the War Department on this case is printed herewith as a part of this report.

The committee recommend that the bill do not pass.

Case of John M. Butler, alleged late private in Company G, One hundred and fifteenth Indiana Volunteers.

RECORD AND PENSION DIVISION, *February 2, 1892.*

The name John M. Butler has not been found on the rolls of Company G, One hundred and fifteenth Indiana Volunteers, but a man of that name was enrolled as a private in Company G, One hundred and fiftieth Indiana Volunteers, March 1, 1865, to serve one year, and appears to have served faithfully therein until July 27, 1865, when he deserted at Camp Brooke, Va., and never returned. His company was mustered out of service August 5, 1865, at Stevenson Station, Va.

The following is a synopsis of the testimony presented in connection with an application for removal of the charge of desertion and for an honorable discharge:

Under date of May 23, 1883, the soldier testified that he left his regiment in Virginia with the intention of returning in a day or two, but before he could rejoin his command it was mustered out of service.

William Moffitt, late captain, and John H. Messner, late lieutenant, same company and regiment, testified that in their opinion it was the soldier's intention to return, but as the war was over and having nothing to do, he failed to rejoin his command.

The application was denied, November 10, 1883, on the ground that the case appeared to be one of admitted desertion and that the charge was properly made.

On February 20, 1890, Butler testified that he served faithfully until July 27, 1865, when he left his regiment, then at Camp Brooke, Va., and went home, believing that there was no necessity for him to remain any longer.

John H. Messner and Abraham H. Ham, members of the same company and regiment, in a joint affidavit, executed February 20, 1890, declared that the soldier did not intend to desert, that he was a good soldier, and that the cause of his leaving the service was due to homesickness.

Application was again denied March 19, 1890, for the reason that the case was not covered by existing law (act of Congress approved March 2, 1889), as the soldier did not serve six months prior to May 1, 1865.

Since the date of the last denial the status of the case has not been changed either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY WAR.

PLEASANT MARKHAM.

MARCH 9, 1892.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2529.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2529) for the relief of Pleasant Markham, having considered the same respectfully report:

The committee has examined the evidence presented with this case and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill. The report of the War Department on this case is printed herewith as a part of this report.

The committee recommend that the bill do not pass.

Case of Pleasant Markham, late of Illinois Volunteers, unassigned.

RECORD AND PENSION DIVISION, *February 4, 1892.*

A report on this case was furnished the Committee on Military Affairs, House of Representatives, on H. R. bill No. 7701, Fifty-first Congress, first session, June 5, 1890. Following is a copy:

"Pleasant Marcum, unassigned private, Illinois Volunteers, was enlisted as a substitute on November 16, 1864, to serve one year, and was sworn in on the same date. He was received at Camp Butler rendezvous (near Springfield), Illinois, on November 19, 1864; was admitted to the post hospital at Camp Butler on November 21, 1864, with 'toes amputated;' was transferred and admitted tog eneral hospital near Springfield, Ill., on January 8, 1865, from camp with 'incised wound,' and is reported there as having deserted on April 25, 1865.

"He never returned to military control, although his term of service did not expire until November 15, 1865.

"This man has been an applicant for removal of the charge of desertion from his record and for an honorable discharge since 1885. His authorized attorney, under date of December 18, 1885. stated that this man, after having performed duty as nurse at the hospital about six months, was sent home on a furlough which read, 'Return when ordered,' and that he never received such orders.

"(The records of the Northern Department, of the District of Illinois, or of the post of Springfield, Ill., furnish no evidence of any furlough granted this man in the spring of 1865.)

"Being requested to submit the furlough alleged to have been received by him, the applicant, under date of April 27, 1886, testified that he can not find the furlough, and believes that it was burned together with other papers in 1875.

"Mollie and Minnie Clay, under date of April 27, 1886, testified that they are stepdaughters of this applicant, who, on his return from the Army, had a furlough, which they heard read; that this furlough was burned together with other papers.

"On December 29, 1886, the Department rejected the application on the ground that the testimony submitted is deemed insufficient to establish the soldier's inability to complete his term of enlistment.

"Under date of May 25, 1889, the applicant testified that he enlisted in the fall of 1864, and was sent to Camp Butler, where he served as a hospital steward until April, 1865, when he was taken sick and received a furlough to go home; that the war had closed before he was able to return.

"*Under date of July 16, 1889,* he testified that when he went home from Camp *Butler he was suffering from* a pain in his side and from diarrhea, which resulted in *chronic diarrhea, and for* which he was under treatment by a Dr. Gregory, now *deceased, for about five years;* was afterwards treated by Dr. W. M. Finley.

"His two step-daughters (who have already testified in this case), under date of July 15, 1889, testified that when this applicant came home on furlough he was sick and crippled, having a pain in his side and chronic diarrhea, for which he was under medical treatment about five years.

"W. M. Finley, M. D., of Salem, Ill., under date of July 15, 1889, testified that he commenced treating this applicant for chronic diarrhea in the year 1872.

"(A renewed search of the medical records fails to establish that this man was in the hospital in any capacity other than as a patient suffering from 'incised wound' or 'toes amputated.')

"On February 5, 1890, the Department determined to adhere to the former adverse decision in this case, on the ground that there is no record that this man was treated for diarrhea or similar disease in hospital, that there is no record of the alleged furlough, and that the additional testimony does not materially strengthen the case.

"The applicant, Pleasant Markham, of Salem, Ill., was so informed on February 5, 1890, since which date no new testimony has been submitted and the status of the case has not changed."

Since the date of the report quoted above, the following additional testimony has been submitted:

The claimant testifies, September 7, 1891, that he left his regiment about April 5, 1865, without any intention of deserting, under the following circumstances: That about April 1, 1865, while splitting wood at Camp Butler, Ill., he cut off two of his toes, contracted sore eyes, and obtained a furlough to go home; that he was confined to his bed until July, 1865, and when able to be up the war was over, and he never having been assigned to any regiment did not know that it was necessary to go back for a discharge.

In a letter dated October 31, 1891, he repeats his statement of September 7, 1891, varying it only as to the date of injury, which he now states was received "about April 10, 1865."

In a joint affidavit dated November 27, 1891, Mattie Hultz and Minnie Peters (former affiants in this case under the names here given, and also under the names Mattie and Minnie Clay) declare that they have been acquainted with the claimant from childhood; "that after he came home from the Army, in April, 1865, he was afflicted with sore eyes, and had his right foot cut badly when he came home, and that he was confined to his room and much of the time to his bed, with sore eyes and lame foot until July, 1865; that he had said sore eyes and cut foot when he came home, and was unable to go about or do anything."

The applicant, in an affidavit dated November 27, 1891, declares that he was suffering from diseased eyes and a cut on his foot necessitating the loss of two toes, and while in this condition was granted a furlough to go home; that he was unable to return on account of the said disabilities, contracted in the line of duty, and was confined to his bed until July, 1865, when the war was over, and he did not deem it necessary to go back.

The following evidence has been obtained from the Pension Office:

Claimant testified, June 10, 1889, that while on duty at Camp Butler, Ill., he contracted sore eyes, resulting in the loss of his left eye, and was cut by a recruit with an ax while cutting wood, which necessitated the amputation of two toes of his right foot.

James Markham, of Six Mile, Ill., aged 53 years, testifies, August 27, 1889, that he was a private in Company F, Forty-third Illinois Volunteers, and knows that claimant got a furlough at Camp Butler, Ill., in 1865, that he was blind with sore eyes, had his right foot cut with an ax, and had two toes taken off.

The claimant in another affidavit, dated February 21, 1890, declared as follows: We left Olding on the 17th of November, 1864, having been ordered to Camp Butler, and on November 19, 1864, "went to split some kindling from an old black oak log, the ax glanced off and cut three toes off his right foot," and that he was taken to the hospital and never returned to the regiment.

A board of examining surgeons of the Pension Office, after an examination of the case of this claimant, made the following report thereon on January 29, 1890: "Loss of sight of left eye from cataract, and loss of second and third toes of right foot at tarso-metatarsal joints. The applicant is otherwise sound, all organs being normal. His habits are bad; dissipated. Is entitled to eight-eighteenths rating on account of loss of an eye and four-eighteenths rating on account of loss of two toes."

The application was again denied December 15, 1891, on the ground that upon a careful consideration of the additional testimony, including that on file in the Pension Office, nothing had been found to justify a reversal of the former adverse decision in the case.

Since that date the status of the case has undergone no change.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 586.

BROAD COLE.

MARCH 9, 1892.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2458.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2458) for the relief of Broad Cole, having considered the same, respectfully report.

The committee has examined the evidence presented with this case and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill. The report of the War Department on this case, printed herewith, is a part of this report.

The committee recommend that the bill do not pass.

Case of Broad Cole, late of Company L, Fifth Indiana Cavalry.

RECORD AND PENSION DIVISION, *February 3, 1892.*

The official records show that Broad Cole was enrolled as a private in Company L, Fifth Indiana Cavalry, December 26, 1863, and mustered into service December 29, 1863, to serve three years. On the muster rolls of his company to April 30, 1864, he is reported present; on roll for May and June, 1864, absent sick at Kingston, Ga., since May 24, 1864, and he is similarly reported on subsequent rolls to December 31, 1864. The roll for January and February, 1865, reports him deserted January 10, 1865, from Lafayette, Ind. His name is dropped from all subsequent rolls of the company.

The hospital records show him admitted to Cumberland general hospital, Nashville, Tenn., June 1, 1864, from Kingston, Ga., with chronic rheumatism, and transferred June 16, 1864; admitted to No. 5, general hospital, New Albany, Ind., June 17, 1864, convalescent (diagnosis appears as "chronic rheumatism"), and deserted July 19, 1864.

He did not return to hospital or to his command, which was retained in service until September 15, 1865.

The following is a synopsis of the testimony submitted to the Department with a view to a removal of the charge of desertion:

The claimant testified in 1882 that while in line of duty in Georgia, in July 1864, from unavoidable exposure he contracted rheumatism, and was sent to Chattanooga, Tenn., for medical treatment, being at that time wholly incapable of performing military duty; that he was then sent to Convalescent Camp at Nashville, Tenn., where he remained about eight weeks, when he was transferred to hospital at New Albany, Ind., remaining at the latter place for some months, when he was granted a leave of absence to visit his home, and in consequence of his sickness did not return to his regiment.

Under date of June 16, 1888, he testified that after a long and unsatisfactory hospital experience he deserted, went home, and never returned to the service because of continued disability, but he was willing to return when he was physically able to do so.

In another affidavit he testifies that when he returned home from hospital on or about July 19, 1864, he was treated by one Dr. A. G. Armstrong, whose whereabouts are unknown; that he was also treated by Assistant Surgeon James Killen, Tenth Indiana Volunteers (now deceased).

John Gooden and William S. Farrell, residents of Green Hill, Ind., testify, under date of June 19, 1888, that they lived neighbors to and knew claimant when he came home from the Army in July, 1864, and that they have known him intimately since; that when he came home he was in a bad physical condition, wholly unable to do manual labor, and remained in that crippled condition until the close of the war, having never fully recovered from rheumatism.

On September 15, 1888, the application for removal of the charge of desertion was denied on the ground that it appeared from the claimant's own statement that he was a willful and intentional deserter because his *hospital experience* was not satisfactory to him.

The case was subsequently submitted with the following additional testimony:

John T. Downs, of Green Hill, Ind., testifies, under date of September 7, 1889, to the soldier's coming home in 1864, sick and disabled from a severe cough and some kind of throat and lung trouble and rheumatism, he being at the time totally unfit for manual labor by reason of said diseases, and remaining in that disabled condition for more than two years. Affiant knew claimant well as a neighbor and volunteered to do his work.

J. D. Cole and William S. Farrell, residents of Green Hill, Ind., in an affidavit executed September 6, 1889, gave similar testimony.

Thomas Stacker, of Green Hill, Ind., testifies that claimant came to his neighborhood about July or August, 1865, sick and disabled from the diseases mentioned by the preceding affiants, and that he suffered continuously with said disabilities for years.

The record and testimony having been referred to the Surgeon-General of the Army, that officer remarked:

"From the record and evidence in this case, I am of the opinion that it is not probable that the within-named man was prevented from completing his term of enlistment by reason of disease contracted in line of duty."

Thereupon, on September 30, 1889, the application for removal of the charge of desertion was again denied, nothing being found in the additional testimony presented to justify a reversal of the former adverse decision in the case.

In December 1890, Hon. J. B. Cheadle, M. C., presented certain testimony with a view to an amendment of record in this soldier's case, but as it was similar to that before presented, the Department declined to reverse its former adverse decision, and Mr. Cheadle was so informed on December 13, 1890.

In January, following, the Commissioner of Pensions submitted an affidavit executed by the soldier December 5, 1890, declaring that while in the hospital at New Albany, Ind., he became dissatisfied with his treatment there, and, in consequence, went home, where he remained until the war was over, so disabled by disease contracted in the service that he was unable to report to his command; that he was treated from the date of coming home to the end of the war by Dr. Hartman, who had since left the neighborhood and whose whereabouts were unknown.

On January 30, 1891, the Commissioner of Pensions was informed that the charge of desertion could not be removed upon such evidence as had been presented.

Since that date the status of the case has not been changed, either by the introduction of new evidence or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 592.

CHARLES T. GARRARD.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2932.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2932) for the relief of Charles T. Garrard, have had the same under consideration and report:

The military record of this soldier shows that said Garrard enlisted October 23, 1861, in Troop K, Sixth Cavalry, served faithfully until February 10, 1864, when he was discharged by reason of reënlistment in the same troop the same date, and served faithfully until October 12, 1865, when he deserted, having served over four years and until long after the war was over; was in many battles, and wounded severely at the battle of Winchester.

Many affidavits of comrades show him to have been a good soldier. He received a furlough for three days and overstaid his time two days, occasioned by an accident. For this he was arbitrarily and unjustly treated. In view of his long service, honorable wounds, good citizenship, and mitigating circumstances of his hasty and unlawful act committed while smarting under his unjust treatment, your committee are of the opinion that the relief should be granted, and recommend that the bill do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 593.

JOSEPH C. WILLIAMS.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2520.]

The Committee on Military Affairs, to whom was referred the bill H. R. 2520, have had the same under consideration and report.

From the military record furnished the committee by the War Department it appears that this soldier enlisted June 5, 1861, in Company B, Eighteenth Illinois Volunteers, and served faithfully until April 7, 1864, a period of two years and ten months, or within two months of the expiration of his term, when he deserted, as he asserts, on account of the tyranny of his captain. On August 11, of the same year, he enlisted in Company A, Twenty-ninth Illinois Volunteers, and has a clear record to August 4, 1865, when he was mustered out with his company.

In view of the service of this man for three years and ten months your committee are of the opinion that the relief should be granted and therefore recommend that the bill do pass.

Case of Joseph C. Williams, late of Company B, Eighteenth Illinois Volunteers.

RECORD AND PENSION DIVISION, *February 3, 1892.*

A report in this case was furnished the Committee on Military Affairs, House of Representatives, on H. R. bill No. 3240, Fifty-first Congress, first session, January 9, 1891. Following is a copy:

"The records show that the soldier was enrolled June 5, 1861, at Anna, Ill., to serve three years, in Company B, Eighteenth Illinois Volunteers, and that his record appears to be good (leaving out of question a short confinement in December, 1863, cause not stated), until April 7, 1864, when he deserted his command at Pine Bluff, Ark.

"On August 11, 1864, he enlisted under the same name at Elizabethtown, Ill., to serve one year, in Company A, Twenty-ninth Illinois Volunteers, and had a clear record to August 4, 1865, when he was mustered out with his company.

"This latter service was null and void for the reason that he had not been properly discharged from his former organization, and his second enlistment was, therefore, in violation of the Twenty-second Article of War, the law viewing him as in a continuous state of desertion during the whole period of said enlistment.

"In his first application (October 12, 1887) for removal of the charge of desertion the soldier testified that he left his command because the captain had conceived a dislike for him, that his treatment was oppressive; that failing to obtain the captain's consent to a transfer and being unable to stand the latter's treatment any longer, he left the company, without intending to abandon the service, and went to *his home, where he remained* until August, 1864, when he enlisted in the Twenty-*ninth Illinois Volunteers.*

"Upon this statement, and upon the record, the application was denied on the ground that the case was not covered by the act of May 17, 1886, as the absence exceeded three months.

"In June, 1888, and in July, 1888, the soldier repeated his former statement, but no favorable action was taken.

"Subsequently, the soldier waived his former plea of ill treatment and set up one of sickness between April and August, 1864, to wit:

"A. Wall, M. D., of Hardin County, Ill., testified September 17, 1888, that he was called to see the soldier about April 10, 1864, when witness found him suffering from a low grade of fever, and three or four weeks afterwards witness gave him medicine at his (witness's) house.

"Witness also gave it as his impression that he 'extended the soldier's furlough fifteen or twenty days' at the time mentioned, and that the fever resulted from exposure while in service.

"Four neighbors (in separate affidavits) testify to the soldier coming home from the Army in the spring of 1864 with some kind of fever. Two of these witnesses declared that the soldier was unfit for work or duty for some time after his return, and that he was treated by Dr. A. Wall.

"Another, Samuel Kibler, did not remember who attended the soldier, while Punet Terrell makes no mention of treatment.

"The application was again denied November 22, 1888, on the ground that the plea of furlough, based on physical disability, was incompatible with the clear and positive record of desertion, the substantial correctness of which the applicant had repeatedly admitted, and that the period of absence exceeded three months, thus debarring him from the operations of the act of Congress approved May 17, 1886.

"The act of Congress approved March 2, 1889, extended the limit in such cases to four months, but even with that extension the soldier's absence exceeded the period allowed by that act."

Since the date of the report quoted above the the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 594.

CORNELIUS McLEAN.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 976.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 976) to correct the military record of Lieut. Cornelius McLean, have had the same under consideration and report:

The committee find this officer was continuously ill in hospital, as appears by the records. His offense, as charged by his colonel, is in not reporting his whereabouts. He was peremptorily dismissed July 7, 1864, without notice or any hearing. The same day he was examined by a medical board at Annapolis, who reported him unfit for duty and recommended his honorable discharge for disability. So it appears that he was disgraced for being sick.

Your committee, therefore, are of opinion that he is entitled to the relief asked for, and we recommend that the bill do pass.

Case of Cornelius McLean, late lieutenant Thirty-ninth New York Volunteers.

RECORD AND PENSION DIVISION, *February 19, 1892.*

A report furnished by this Department in this case was printed in Report No. 2601, House of Representatives, Fifty-first Congress, first session.

Since the date of that report, the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 595.

ANDREW L. GRUGETT.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2083.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2083) to remove the charge of desertion from the record of Andrew L. Grugett, Company E, Sixth Tennessee Cavalry, have had the same under consideration and report:

From the official record furnished the committee by the War Department, which is made a part of this report, it appears that the said Grugett was enrolled in Company E, West Tennessee Cavalry, September 18, 1862; that on about the 24th of January, 1863, he, with others, was captured by the enemy and after a time escaped; was recaptured and paroled by Gen. Van Dorn, and while at home was again taken prisoner and again escaped, and in March, 1864, he enlisted in the Second Tennessee Mounted Infantry and served faithfully until the end of the war, and was mustered out with his regiment May 6, 1865, as shown by the original certificate of discharge filed with the evidence.

The committee recommend that the bill do pass.

Case of Andrew L. Grugett, late of Company E, Sixth Tennessee Cavalry.

RECORD AND PENSION DIVISION, *February 19, 1892.*

A report in this case was furnished the Committee on Military Affairs, House of Representatives, on H. R. 12824, Fifty-first Congress, second session, January 7, 1891. Following is a copy:

"It appears from the official records that Andrew L. Grugett was enrolled as a corporal in Company E, First West Tennessee Cavalry (subsequently known as the Sixth Tennessee Cavalry), September 18, 1862, to serve three years, and he appears as present on roll to December 31, 1862. Company muster roll for January and February, 1863, reports him as captured by the enemy at Bolivar, Tenn., January 24, 1863. Muster roll for March and April, 1863, reports him absent as a prisoner of war since January 24, 1863. Roll for May and June, 1863, reports him 'captured and paroled,' and roll for July and August, 1863, 'deserted—absent since June 10, 1863.' Subsequent muster rolls do not bear his name.

"On March 1, 1864, while a deserter at large, and in violation of the Twenty-second (now Fiftieth) Article of War, he enlisted under the name of Alexander Griggett, as a private in Company C, Second Tennessee Mounted Infantry, for the period of one year, and he served in that organization until May 6, 1865, when he was mustered out with detachment at Nashville, Tenn., as Alexander Gruggett.

"The following is a synopsis of the testimony heretofore submitted to the Department in connection with application for removal of the charge of desertion, to wit:

"*Under date of June 21, 1880,* the soldier testified that he was captured at Bolivar, Tenn., and that he was 'dragged around' until February, 1863, when he made

his escape; that after his escape he did not know where his regiment was stationed, and that he was compelled to reënlist in the first regiment he met, which he did March 1, 1864, being young, and not knowing what else to do.

"On September 28, 1883, the soldier declared that he was captured at Bolivar, Tenn., and paroled; that while at home and waiting to be exchanged he was recaptured and taken to the enemy's camp, from which he made his escape and again returned home.

"G. W. Pool testified that he was a member of Company E, Sixth Tennessee Cavalry, and that on or about January 1, 1863, he was captured with Grugett at Bolivar, Tenn., while in the line of duty, and that they were taken to Pontotoc, Miss., and there paroled by Gen. Van Dorn.

"W. O. Arnett, who claimed to have been orderly-sergeant of the soldier's (Grugett's) company, testified, August 24, 1881, to the soldier's being captured about January 7, 1863; after which date he (affiant) did not see him again up to the close of the war.

"On December 20, 1883, the application was denied, on the ground that the case was not covered by existing law.

"Under date of June 15, 1885, the soldier repeated his former testimony, adding that he had never received any notice of exchange, and that if he ever was exchanged his regiment was beyond his reach, and that he consequently enlisted in Company C, Second Tennessee Mounted Infantry.

"On January 22, 1887, the Department held that 'inasmuch as the case of this soldier does not come under the provisions of the act of Congress approved May 17, 1886, because he was absent from the service for a period exceeding three months the Secretary of War has decided that there is no provision of law under which the application can be granted. It is therefore denied.'

"On July 7, 1890, the soldier again gave testimony similar to that already furnished by him, but the application was again denied, July 14, 1890, on the ground that his period of absence exceeded four months (act of March 2, 1889).

"Subsequently, the case came up through the Hon. George W. Smith, M. C., who submitted additional testimony, to wit:

"Under date of December 12. 1890, the soldier testified that after his parole at Pontotoc, Miss., he reported at Corinth, Miss., where he was given transportation and subsistence to Bethel, Tenn., but that, as his regiment was not at the latter place, he passed on to Purdy, Tenn., in hope of reaching his command; that as the rebels were swarming all around he went home and was again captured; that he enlisted in the Second Tennessee Mounted Infantry under his proper name, and not as Alexander Grugett, and that he visited his old regiment at Nashville, when both regiments met for the first and last time during the war; that about the last of April, 1863, he met Capt. Elijah Roberts, who conversed with him about his capture and parole, and then and there recognized the said parole; that the said captain declined to receive him back into service until he (soldier) had been exchanged; that his purpose in reënlisting in another organization was to avoid recapture; that Company C, Second Tennessee Mounted Infantry, was commanded by Andrew J. Roberts, a brother of the officer (Elijah Roberts) who commanded Company E, Sixth Tennessee Cavalry, and that at a meeting of the two brothers in 1864 he (soldier) was recognized by his former captain, Elijah Roberts.

"Andrew J. Roberts, late captain Company C, Second Tennessee Mounted Infantry, testified November 15, 1890, that he is a brother of Elijah Roberts, who commanded Company C, Sixth Tennessee Cavalry, and that he remembered meeting his said brother after the soldier reënlisted in Company C, Second Tennessee Mounted Infantry, and that the soldier was present at such meeting and was recognized by Elijah, but that no mention was made of the soldier's desertion from his former organization.

"George W. Pool, a former witness, gave testimony, on September 10, 1890, similar to that given by the soldier on December 12, 1890, through Hon. George W. Smith.

"Two comrades of Company C, Second Tennessee Mounted Infantry, in separate affidavits, declared that the soldier went by the name Andrew, and that it was a mistake if his name appears as Alexander or William. (On the company muster rolls the soldier's name appears as *William* Gruggett.)

"On December 23, 1890, the Hon. Mr. Smith, M. C., was informed that as the period of the soldier's absence exceeded four months the Department was not empowered by existing law (act of Congress approved March 2, 1889) to afford relief."

Since the date of the report quoted above the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 596.

SAMUEL F. ENGS.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 115.]

The Committee on War Claims, to whom were referred the bills (H. R. 4498 and 4499) for the relief of Samuel F. Engs and A. M. Randolph *et al.*, have had the same under consideration and beg leave to report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and report herewith a resolution to that effect and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 597.

NANCY C. SMITH AND OTHERS.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 116.]

The Committee on War Claims, to whom were referred the bills (H. R. 4134, 4135, 4138, 4139, 4140, 4142, and 4143) for the relief of Nancy C. Smith, William M. Kimmons, Eunice Hurdle, Dr. John H. Jones, Martha A. Allen, administratrix of Wyatt M. Allen, Elizabeth and B. L. Crum, and estate of E. S. Matlock, have had the same under considcration and beg leave to report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and herewith report a resolution to that effect and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 598.

A. W. DAVIS.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 117.]

The Committee on War Claims, to whom was referred the bills (H. R. 3776 and 3777), for the relief of A. W. Davis and Bolivar Lodge, No. 127, Free and Accepted Masons, of Stevenson, Ala., have had the same under consideration and beg leave to report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and herewith report a resolution to that effect and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 599.

FREDERICK OTTSTOTTS.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PATTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 4730.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4730) to remove the charge of desertion against the name of Frederick Ottstotts, have had the same under consideration, and make the report herewith submitted, with accompanying papers, which form a part thereof.

WAR DEPARTMENT, *Washington, February 5, 1892.*

SIR: I return herewith house bill 4730, Fifty-second Congress, first session, to remove the charge of desertion against Frederick Ottstotts, which was referred to this Department on the 27th ultimo, and beg to invite your attention to the inclosed report of the Adjutant-General of the Army, dated the 2d instant, thereon.

The additional papers which accompanied your letter of the 2d instant, with the request that they be considered in connection with the case, are also herewith returned as desired, they having been examined by the Adjutant-General in connection with the bill.

There is no apparent reason why the charge of desertion against this man should be removed. The record shows that he did desert, and that he has remained a deserter at large. Under the act of April 11, 1890, he is relieved from arrest and trial, if he has remained in the United States seven years after the enlistment from which he deserted, and he is entitled to a deserter's release upon application, and showing his continuous residence in the United States.

Very respectfully,

L. A. GRANT,
Acting Secretary of War.

The CHAIRMAN OF THE COMMITTEE ON MILITARY AFFAIRS,
House of Representatives.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 2, 1892.

SIR: I have the honor to return herewith bill for the removal of charge of desertion from the record of Frederick Ottstotts, Company K, Fifth United States Cavalry (H. R. 4730), and in compliance with the request of the Committee on Military Affairs, House of Representatives, to report as follows:

Private Frederick Otstott enlisted May 15, 1855; was assigned to Troop K, Second Cavalry, and discharged May 15, 1860, by expiration of term of service; he reënlisted in the troop June 14, 1860; designation changed to Fifth Cavalry, and was discharged July 1, 1864, by reason of reënlistment; he reënlisted July 1, 1864, for three years; was assigned to Troop K, Fifth United States Cavalry; deserted August 10, 1865, at Washington, D. C., and never returned to his command. The Department has no power to remove the charge of desertion under act of March 2, 1889, the only law on the subject now in force.

Under the One hundred and third Article of War, as amended by act of Congress of April 11, 1890, the man is not amenable to trial by general court-martial, and provided he has been within the United States seven years since date of enlistment, July 1, 1864, a deserter's release may be issued to him by this office.

Very respectfully,

J. C. KELTON,
Adjutant-General.

The SECRETARY OF WAR.

Your committee, after due consideration of the facts as shown by the foregoing report from the records of the War Department, beg leave to report the same back to the House with the recommendation that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 600.

HEIRS OF DR. NATHAN FLETCHER.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5939.]

The Committee on War Claims, to whom was referred the bill (H. R. 5939) for the relief of the heirs of Dr. Nathan Fletcher, have had the same under consideration and find that Dr. Fletcher died in 1857. His widow and five children (four girls and one boy), all minors, continued to live on the plantation until several years after the close of the war.

Some time in the month of October, 1864, the U. S. transport *Stone River*, under convoy of the gun-boat *General Stanley*, Capt. William A. Naylor, commanding, landed at Dr. Fletcher's plantation and took possession of, and carried off, 32 bales of cotton, weighing at the gin, when packed, 18,845 pounds. These 32 bales of cotton were carried on said transport to the town of Decatur, Ala., thence shipped to some point in the North, where the said cotton was sold, and the proceeds covered into the Treasury of the United States.

The committee find that these 32 bales of cotton have been indubitably traced and followed, until their proceeds were finally lodged in the Treasury of the United States, as is attested by the following letter from the honorable the Secretary of the Treasury, which the committee beg to make part of this report:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 8, 1887.

SIR: Replying to your three letters under dates of July 16 last, August 4 last, and December 22 ultimo, asking for information respecting the claim of Mrs. Susan R. Fletcher to the proceeds of certain cotton seized from her plantation during the late civil war, I have the honor to inform you that it appears from the records of this Department that on January 30, 1864, at Fletcher's Ferry, about 30 miles above Decatur, Ala., on the South bank of the Tennessee River, 32 bales of cotton, said to be the property of Mrs. Susan Fletcher, were seized by a detachment from the United States transport *Stone River*, which cotton was afterwards sold and the proceeds covered into the Treasury. It further appears from a report on file that Mrs. Fletcher was disloyal to the Government and in active sympathy with the Confederate cause; that during the war Federal gunboats were more frequently fired on by persons harboring on her place that from any other point on the river. She afterwards made application to the Secretary of the Treasury for the restoration to her of the cotton, or its proceeds, but her claim was rejected, on what ground does not appear, though it is presumed from certain notations on the papers that the ground of rejection was that it was a military seizure, and consequently not within the jurisdiction of the Secretary of the Treasury.

The papers and reports in this case await your examination.

Respectfully, yours,

D. MANNING,
Secretary.

Hon. JOSEPH WHEELER,
House of Representatives.

The committee also append the following statement of facts and circumstances relating to said claim, verified by the affidavit of A. E. Ashford, the guardian and agent of claimants:

Dr. Nathan Fletcher died at Fletcher's Ferry, in Morgan County, Ala., in the year 1857. His widow, Mrs. Susan R. Fletcher, and children, four girls and one boy, continued to live at Fletcher's Ferry, on Tennessee River, alone, until several years after the war closed. In October, 1864, the transport boat *Stone River*, under convoy of armed boat *General Stanly*, Capt. William A. Naylor commanding, landed at Fletcher's Ferry, and the boat crew, by order and direction of Captain Naylor, seized and took possession of 32 bales of cotton (gin weights when packed 18,845 pounds) lying at the gin-house, close to landing at ferry, and hauled all of said 32 bales of cotton with a wagon and four mules belonging to said heirs of Nathan Fletcher to the boat landing and put it on the transport boat *Stone River*, carried it to Decatur, Ala., thence shipped it to Washington, D. C., and said 32 bales of cotton were sold in January, 1865, and proceeds of such sale were covered into the Treasury of the United States Government and are now there, as the records of the Treasury show by official statement by Hon. Daniel Manning.

All of the children of Dr. Nathan Fletcher were minors at the time of seizure of their cotton. Mrs. Susan R. Fletcher, his widow, was exceedingly prudent, cautious, and conservative in conduct toward both armies, which course was necessitated, if for no other reason, by her unprotected and defenceless condition, all of which is abundantly shown by affidavits in evidence. The fact and manner of seizure of thirty-two bales of cotton is shown and proven by the sworn evidence of James R. Johnson and Richard Easly, pilots on the boats present, and on which the cotton was taken away; also evidence of negroes present and eyewitnesses. It is also shown in evidence that Mrs. Susan R. Fletcher did take the oath of allegiance to the United States or Federal Government, at Huntsville, in 1864, and that she did get an order from General Stanly, then commanding there, for the recovery and the delivery of said thirty-two bales of cotton to her, showing conclusively that she was loyal, and innocent of any charge of disloyalty or overt act against the United States Government, or of any active aid given the Confederate cause.

Mrs. Susan R. Fletcher, the widow, is dead. Her eldest daughter, Josephine, and her husband, Oliver P. Saunders, died of yellow fever at Grenada, Miss., in October, 1878, and their five children are yellow-fever orphans, and they, as well as all the heirs of Dr. Nathan Fletcher, need, and respectfully pray your honorable body for relief by an act of justice in awarding compensation to them for their thirty-two bales of cotton so taken and used by the United States Government.

Respectfully submitted.

Per A. E. ASHFORD,
Agent by power attorney for heirs Dr. Nathan Fletcher, deceased.

STATE OF ALABAMA, *Lawrence County:*

I certify that the person whose name is signed to this paper personally appeared before me, and after being sworn according to law, on oath, says that the statements, allegations, and averments set forth in this paper are true, to the best of his knowledge and belief.

January 26, 1888.

JOHN A. GILCHRIST,
Notary Public.

The committee also append the petition of claimants, verified by affidavit and certificate of A. E. Ashford.

Said petition sets forth the amount of the claim and circumstances attending the seizure of the cotton.

The petition is in words and figures following:

PETITION.

Your petitioners, Caroline T. Ashford, Clara S. Ashford, and Lena L. Ashford, respectfully represent that they are citizens of the United States, residing in the county

of Lawrence in the State of Alabama, and Sarah M. Saunders, Mary C. Saunders, Eugene P. and James L. Saunders, residing in the county of in the State of Mississippi; and James I. Fletcher and Martha F. Burt, residing in the county of in the State of Mississippi, all being citizens of the United States and heirs of Dr. Nathan Fletcher, deceased, and that when this claim accrued they resided at or near Fletcher's Ferry, in Morgan County, Ala. That they have a claim against the United States for 32 bales (18,000 pounds) of lint cotton, taken for the use of the United States during the late rebellion. That they did not give aid or comfort to the rebellion during the late war, but were all minors and loyal to the Government of the United States during that war. Your petitioners further state that the value of the property so taken, and for which the Government of the United States is indebted to petitioners, amounted to $23,000, and that said property consisted of the following-named items or articles, being then and at that time of the true value herein stated, to wit:

The United States Government, Dr., to heirs of Dr. Nathan Fletcher, deceased.

1864.			
October	15.	To 32 bales of cotton, 18,845 pounds, at $1.25 per pound...	$23,156.25
		To 1 black mule, Tibb, at $200	200.00
Oct. and Nov.		To 600 bushels corn	300.00
		Total amount due heirs of Dr. N. Fletcher	23,656.25

Wherefore your petitioners appeal to your honorable body and ask that the bill introduced on December 21, 1887, in first session of Fiftieth Congress, H. R. 34, entitled "A bill for the relief of the heirs of Dr. Nathan Fletcher," and the papers and evidences relating to said claim, and which were referred to the Committee on War Claims, be called for, and all the evidences attached thereto as part of the report and proof of said claim.

A. E. ASHFORD,
Agent, by power of attorney, for Heirs of Dr. Nathan Fletcher.

STATE OF ALABAMA, *County of Lawrence:*

I certify that the person whose name is signed to this paper personally appeared before me, and, after being sworn according to law, on oath says "that the allegations and averments set forth in this paper are true."

January 26, 1888.

JOHN A. GILCHRIST,
Notary Public.

The committee also append the affidavits of Richard Easly, James R. Johnson, Minty De Louch, Louis De Louch, Stephen Graves, Lizzie N. Moore, Robert Wiggins, Dr. James A. Beasley, Dr. Richard M. Fletcher.

These affidavits show the circumstances under which the cotton was taken.

The affidavits also show that the family of Nathan Fletcher did not do any act of disloyalty during the war; they show they had nothing to do with nor knowledge of any firing on gun-boats or any other hostile act committed by Confederates or any one else in the vicinity of their home.

The affidavits show they did not harbor any persons who committed hostile acts.

The affidavits also show that the heirs of Nathan Fletcher were his widow and children, consisting of a boy nine years old and three young girls.

The committee can not presume that a boy nine years old and three little girls were disloyal in a case like this where there is not a particle of evidence to show they were disloyal or ever did a disloyal act.

The affidavits are in words and figures following:

STATE OF ALABAMA, *Marshal County:*

Richard Easly, of the to wn of Warrenton, in the county and State aforesaid, being duly sworn, upon oath says:

I was employed in the Army and in the naval service of the United States Govern-

ment as pilot, by Capt. William A. Naylor, to pilot boats belonging to and used by said Government on the Tennessee River during the years 1864 and 1865. In the fall of 1864 I was piloting the transport gun-boat *Stone River*, commanded by Capt. William A. Naylor. On a trip down the river, about the middle of October, I was ordered and did land the boat at Fletcher's Ferry, some 14 miles above Decatur. A lot of cotton bales was taken from a gin-house on the bluffs near the river, by order of Captain Naylor, and put on the boat I was piloting and carried to Decatur. We often stopped at Fletcher's Ferry, and I knew Mrs. Susan Fletcher and family. Her children were young.

I knew of no charges against her or cause why the cotton was taken.

I am forty-seven years old and live in Marshal County.

And further says not.

his
RICH. × EASLY.
mark.

Sworn to and subscribed before me this the 28th day of May, 1874.

JNO. D. TAYLOR,
Justice of the Peace.

STATE OF ALABAMA, *Marshall County:*

I, L. D. Lusk, judge of the probate court of said county, hereby certify that John D. Taylor, whose official signature is signed to the foregoing affidavit, is now and was at the time of signing the same an acting justice of the peace in and for said county, and that full faith and credit are due all his official acts as such.

In witness whereof I have hereunto subscribed my name and affixed the seal of said court at office in the town of Guntersville, this the 29th day of May, A. D. 1874.

L. D. LUSK,
Judge of Probate.

STATE OF ALABAMA, *Lawrence County:*

I, John A. Gilchrist, notary public for said county, certify that the foregoing is a true copy of the original papers.

Given under my hand and notarial seal this the 15th day of November, 1887.

JOHN A. GILCHRIST,
Notary Public.

STATE OF ALABAMA, *County of Marshall.*

Capt. James R. Johnson, of the town of Guntersville, in the county and State aforesaid, being duly sworn, on oath says:

I was employed as pilot in the service of the United States by Captain Glassford, to pilot and conduct boats belonging to and used by the United States Government on the Tennessee River during the late war with the States then in rebellion, and so acted as pilot during the years of 1864 and 1865.

During the fall of 1864, on or about the 15th day of October, I was pilot on the armed boat *General Thomas*, and while on down trip acted as convoy to the transport gun-boat *Stone River*, commanded by Capt. William A. Naylor.

The gun-boat *Stone River* stopped and landed at Fletcher's Ferry and took on a lot of cotton, which was brought down from a gin-house on the bluffs near the lower landing at said ferry. From appearance I judge thirty odd bales was taken from the gin-house.

The cotton was taken to Decatur, Ala., some 14 or 15 miles below and unloaded. I saw the cotton lying on the river bank at Decatur. The *General Thomas* did not land at Fletcher's Ferry, but stood out in the river opposite the landing. I do not know what disposition was made of the cotton. I was informed, and it was generally understood, that the cotton belonged to the estate of Dr. Nathan Fletcher.

I knew Mrs. Susan R. Fletcher, widow of Dr. Fletcher, and family, and know of no cause why the cotton was or should have been taken.

Mrs. Fletcher's family consisted of four daughters and one son, then about eight or ten years old.

And further says not.

JAMES R. JOHNSON.

Sworn to and subscribed before me this the 28th day of May, 1874.

JOSEPH B. FURGERSON,
Justice of the Peace.

STATE OF ALABAMA, *Marshall County:*

I, L. D. Lusk, judge of the probate court of said county, hereby certify that Joseph B. Furgerson, whose official signature is affixed to the foregoing affidavit, is now, and

was at the time of signing the same, an acting justice of the peace for said county, duly elected and qualified, and that full faith and credit are due all his official acts as such.

In witness whereof I have hereunto subscribed my name and affixed the seal of said court at office in the town of Guntersville, this the 29th day of May, A. D. 1874.

L. D. LUSK,
Judge of Probate.

STATE OF ALABAMA, *Madison County:*

Personally appeared before me, D. W. Beadle, a justice of the peace in and for said county and State, Minty De Louch, of the town of Triana, in the county of Madison and State of Alabama, who, being duly sworn, upon oath says: I formerly belonged to the estate of Dr. Nathan Fletcher, and was the cook. I lived with Mrs. Susan R. Fletcher and family at Fletcher's Ferry, on Tennessee River, until after the war was over. There were three girls and one boy in the family then. The oldest child, Miss Josephene, was about eighteen or nineteen years old, and the boy, Jimmie, some nine or ten years old. I was born and raised in the family, and stayed with the family all the time of the war. Mr. John J. Fletcher was guardian of the children, and Dr. Dick Fletcher the family physician. The Fletcher boys sometimes came to see how we were getting on, but I hardly ever saw any other men nor rebel soldiers about our house. I never saw or heard of any rebel soldiers being hid about Miss Susan Fletcher's, and I know that the rebel soldiers never fired at the Union soldiers nor the gun-boats about our house, for I lived in the yard close to the family, and would have seen it and heard it if they had done it.

Col. Joe Patterson fired the cannon once, I know, at the Union soldiers, from the bluffs below our house; and General Roddy's men shot across the river at Union soldiers in the stockade. Captain Naylor told Miss Susan, right before my face, that if any of his men or any of his boats were fired at about there, he would burn her house up; and if she kept rebel soldiers about her he would burn her house and take her prisoner; so she told the rebels to stay away from her, for the Yankees would burn her house up. I saw Captain Naylor's men when they hauled our cotton from the gin-house and put it on their boat. They took our wagon and mules and hauled it, and killed one of the best mules we had. Old Tibb, hauling the cotton, broke a blood-vessel, and she bled at the nose and mouth, and died soon after that.

We lost a heap of our meat and chickens by them; had to hide everything, for both sides would rob us. The Union soldiers said if they did not take the cotton the rebs would, so they took it to keep the rebels from having it. Captain Naylor and his men often come up to the house and give Miss Susan newspapers to read.

And further says not.

her
MINTY X DE LOUCH.
mark.

Sworn to and subscribed before me this the 4th day of February, 1887.

D. W. BEADLE,
Justice of the Peace in and for said city.

STATE OF ALABAMA, *Madison County:*

Personally appeared before me, Daniel W. Beadle, a justice of the peace in and for said county and State, Louis De Loach, of the town of Triana, in the county of Madison and the State of Alabama, who, being duly sworn, upon oath says: I lived in Morgan County, near Fletcher's Ferry, on Tennessee River, during the war. My wife, Minty De Loach, belonged to the estate of Dr. Nathan Fletcher, and she cooked for his widow, Mrs. Susan, and family. I lived near and went to see my wife nearly every night. Mrs. Fletcher did not harbor any Confederate soldiers or spies of nights, or I would have seen them, for my wife lived in the yard. Mrs. Fletcher often told me to tell all the rebel soldiers that they could not stay all night. She was afraid that the Union soldiers would take all she had and burn her house. Colonel Patterson once fired at some Union forces to keep them back until he could cross the river, and the gunboats soon after shelled her house, so that all of her family had to leave home, and stayed in the woods all day long. The rebel soldiers did not stop with her on that account, but went out to Mr. Fount Roberts's woods, a mile off, to camp. Mrs. Fletcher often said she would move away from the ferry because it was so public, but had no place to go. She lost some cotton from her gin-house, and a large black mule and about 50 acres of corn on the north side of the river, taken by the Union soldiers. *I saw them gathering* the corn, and my wife told me they took the cotton.

The soldiers would take her meat, chickens, hogs, and anything they wanted, and often left her without anything to eat. I never knew Mrs. Fletcher to do anything to injure or hurt any of the Union men.

And further says not.

his
LOUIS × DE LOACH.
mark.

Sworn to and subscribed this the 4th day of February, 1887, before me,
DAN'L W. BEADLE,
Justice of the Peace in and for said County and State.

STATE OF ALABAMA, *Madison County:*

Personally appeared before me, Daniel W. Beadle, a justice of the peace in and for said county and State, Stephen Graves, of the town of Triana, in the county of Madison and State of Alabama, who, being duly sworn, upon oath, says: I lived with the widow and family of Dr. Nathan Fletcher, deceased, at Fletcher's Ferry, on the Tennessee River during the years 1862, 1863, 1864, and 1865. My wife Celia belonged to that estate. I was the only man that stayed all the time on the place, and I attended to the stock and took care of everything after the overseer, Mr. Jno. Dunn, left in 1863. The gunboats often stopped at the ferry in passing up and down the river. About in October, the fall before the surrender, Captain Naylor landed his boat at the bluffs below the ferry, and one of the officers came off the boat and made me hitch four mules to our wagon and his men took the wagon and hauled every bale of cotton we had to the boat, and put it on the boat and carried it away. They took 32 bales, for I was right there and saw them do it.

The Union men said they took it to keep the rebs from getting it. I told them that it had been lying there a long time without any one troubling it before. They made seven loads and killed the best mule on the place—pulled her so hard that she bursted a blood vessel and the blood run out of her mouth and nose; so she died soon after. She was a big black mare mule, named Tibb, and was worth $200 in gold. The Confederate soldiers did not come about us much, only in crossing the ferry. I never saw any of them hid about Miss Susan's. She was afraid to let them even stay all night.

There never was any fighting done close to us, except when Colonel Patterson shot his cannon at the Union soldiers when they followed him to the river, when he made the raid on Madison Station; and he done that to keep them off him until he could cross the river. We were always glad to be rid of both sides, for they just took anything they could lay their hands on; both sides robbed us, I tell you. And further says not.

his
STEPHEN + GRAVES.
mark

Sworn to and subscribed this the 4th day of February, 1887, before me,
DAN'L W. BEADLE,
Justice of the Peace in and for said county and State.

THE STATE OF ALABAMA, *Madison County:*

I, Thomas J. Taylor, judge of the court of probate, which is made by law a court of record in and for said county and State, hereby certify that D. W. Beadle, whose name and genuine signature appear to the annexed certificates, was, at the time of attesting the same, a justice of the peace in and for said county, duly commissioned and qualified; and that, as such, his acts and doings are entitled to full faith and credit.

In testimony whereof I have hereunto set my hand and affixed the seal of said State, at office, this 5th day of February, A. D. 1887.

[SEAL.] THOMAS J. TAYLOR,
Judge of Probate.

STATE OF ALABAMA, *Madison County:*

Personally appeared before me, C. C. Gewin, a justice of the peace in and for said county and State, Mrs. Lizzie N. Moore, of the town of Madison, in the county of Madison and State aforesaid, who, being duly sworn says: I knew Mrs. Susan R. Fletcher, widow of Dr. Nathan Fletcher, intimately from the time of her marriage with Dr. Nathan Fletcher until the time of her death, 1886. I was informed by her and my father, Jno. I. Fletcher, administrator of Dr. N. Fletcher's estate, that she took the oath of alle-

giance in 1864 to the United States Government in Huntsville, Ala., and obtained an order from General Stanley, commanding, for the recovery of thirty-two bales of cotton taken by Federal troops from the estate of Dr. Nathan Fletcher in October, 1864. The family of Dr. Nathan Fletcher consisted of his widow, Susan R. Fletcher, four girls, and one son. The eldest child, Josephine, was born in September, 1846; I do not believe she took any part on either side during the war. Her nature and defenseless position would not admit of so doing.

And further says not.

LIZZIE N. MOORE.

Sworn to and subscribed this the 24th day of February, 1887, before me.
[SEAL.] C. C. GEWIN,
Justice of the Peace.

STATE OF ALABAMA, *Madison County:*

Robert Wiggins, of the town of Madison, in the county of Madison and State of Alabama, being duly sworn, says that he was a Confederate soldier, and was wounded at the battle of Franklin, Tenn., in November, 1864, and on my return home I stopped at Mrs. Susan R. Fletcher's house, my home and county (Madison) being occupied by Federal forces. Mrs. Susan Fletcher, though an old friend, objected to my staying with her, being afraid of incurring the displeasure of the Federal authorities. I did not stop or stay with her, not wishing to subject her to possible injury by the Federals, as she was helpless and unprotected. I regarded her over prudent and cautious. Her five children were minors. I was informed, and believe it to be true, that she took the oath of allegiance to the United States Government. I have known Mrs. Fletcher since my childhood. She was timid by nature. I do not believe that she took any active part on either side during the late war.

And further says not.

ROBT. WIGGINS.

Sworn to this the 3d day of February, 1887, before me.
[SEAL.] C. C. GEWIN,
Justice of the Peace in and for said County and State.

STATE OF ALABAMA, *Madison County:*

Dr. James A. Beasley, of the town of Huntsville, in the county of Madison and State of Alabama, being duly sworn, says: I was personally acquainted with the widow and children of Dr. Nathan Fletcher, deceased. There were four girls and a boy. The eldest, Josephine, was about nineteen years old, and the boy, Jimmie, about nine years old, at the close of the war. I was often at Mrs. Fletcher's house during the war. I regarded her very prudent and careful of conduct towards both Union and Confederate soldiers. I saw no evidence of any aid given the Confederates. I was informed, and believe it to be true, that Mrs. Fletcher took the oath of allegiance to the United States Government, and she obtained an order from the general commanding, General Stanley, for recovery of some cotton taken from the estate of Dr. Nathan Fletcher in October, 1864, by Federal forces, and carried on boats to Decatur, Ala. I know of no charge of disloyalty against her, or any cause why the cotton should have been taken. And further says not.

JAMES A. BEASLEY.

Sworn to and subscribed this the 17th day of February, 1887, before me,
[SEAL.] ALFRED MOORE,
Notary Public.

STATE OF ALABAMA, *Madison County:*

Dr. Richard M. Fletcher, of the town of Madison, in the county of Madison and State of Alabama, being duly sworn, says: I was intimately acquainted with Mrs. Susan R. Fletcher and family, and often saw them during the war, being their family physician. The children—four girls and one boy—were all minors during the war; the eldest, Josephine, about nineteen years old; the boy, nine or ten years old. Mrs. S. R. Fletcher was passive and timid by nature, and I considered her very prudent and conservative in conduct toward both Federal and Confederate armies. Her extreme defenseless condition—if for no other cause—rendered such a course necessary and imperative. I know of no hostile act to the Federal cause, nor of any active aid given the Confederate government. I do not believe, nor ever heard, that she harbored or concealed any Confederate soldiers or spies about her; nor were Federal *boats fired upon near her house* except by troops in charge of regular Confederate

States officers. I am satisfied that she took the oath of allegiance to the United States Government at Huntsville and obtained an order from General Stanley, commanding, for the recovery of 32 bales of cotton taken from her gin by Federal forces and carried to Decatur, Ala., on a transport boat called *Stone River*. I know of no cause why the cotton was taken. And further say not.

R. M. FLETCHER.

Sworn to this the 3d day of February, 1887, before me.

C. C. GEWIN,
Justice of the Peace in and for said County and State.

THE STATE OF ALABAMA,
Madison County:

I, Thomas I. Taylor, judge of the court of probate, which is made by law a court of record in and for said county and State, that C. C. Gewin, whose name and genuine signature appears to the annexed certificate, was at the time of attesting the same a justice of the peace in and for said county, duly commissioned and qualified, and that as such his acts and doings are entitled to full faith and credit.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at office this the 5th day of February, A. D. 1887.

THOMAS I. TAYLOR,
Judge of Probate.

Personally appeared before me Col. Alver E. Ashford, who, being duly sworn according to law, on oath says that the above and within affidavits and evidences are a true copy of the original which are in his possession.

Sworn to and subscribed before me.

JNO. A. GILCHRIST,
Notary Public.

The evidence seems to show that the claimants have not been negligent in prosecuting their case.

We find the case has been prosecuted before the Treasury Department. We find that on January 19, 1874, Mr. Sloss, a member of the Forty-third Congress, introduced the following bill:

A BILL for the relief of the heirs of Doctor Nathan Fletcher, of Alabama.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and required to pay to the heirs of Doctor Nathan Fletcher, of Alabama, the sum of twenty-two thousand and four hundred dollars, in full payment of thirty-two bales of cotton taken from the plantation of the heirs of said Fletcher by order of Major Eaton, of the United States Army, in the year eighteen hundred and sixty-four, and sold by the Government; the said heirs being at the time of seizure of said cotton minors and non-combatants.

The committee also find that on July 19, 1886, Mr. Wheeler, of Alabama, introduced the following bill:

A BILL for the relief of Mrs. Susan Fletcher.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Mrs. Susan Fletcher, widow of Doctor Nathan Fletcher, of Madison County, Alabama, out of any money in the Treasury not otherwise appropriated, the sum of sixteen thousand five hundred dollars, for cotton seized, the proceeds from the sale of which were placed in the Treasury of the United States.

All the facts show beyond question that the cotton was taken from the claimant by the Federal Army; that the cotton was sold and the proceeds placed in the Treasury.

No reason has been presented which justifies any further delay in returning the money to the rightful owners.

During the war the claimants were a widow and her little children—a boy nine years old and three girls—and there is no proof that they did any act of disloyalty.

The committee therefore report back bill H. R. 5939, and recommend that it be passed.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 601.

FLORENCE MASONIC LODGE, OF FLORENCE, ALA.

MARCH 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5940.]

The Committee on War Claims, to whom was referred the bill (H. R. 5940) to refer the claim against the United States of the trustees of the Florence Masonic Lodge, of Florence, Ala., have had the same under consideration, and after careful investigation find that the building used by the Florence Masonic Lodge No. 14 was a large brick structure—stone foundations and brick superstructure; that its size was 70 feet by 40 feet, as stated by one of the building committee under whose superintendence it was erected, costing originally between $6,000 and $7,000; that the building was situated on Court, or Main, street, wholly isolated from other buildings, and was unoccupied, being used only at stated intervals by the Masonic fraternity, and that it was burned in the month of May, 1863, by the United States troops under command of Colonel Conine, as is fully set forth in the evidence taken by United States Commissioner N. H. Rice, which the committee desire to incorporate in and make part of this report:

THE STATE OF ALABAMA,
Lauderdale County:

In the matter of the claim of Florence Lodge No 14 against the United States Government for the burning of their Masonic Hall, in the town of Florence, by the United States soldiers during the civil war.

Interrogations to be propounded to the witnesses introduced by claimant before N. H. Rice, esq., United States commissioner.

(1) State your age, residence, occupation, and how long you have lived in the town of Florence, or county of Lauderdale, Ala.

(2) State where you were at the time of the burning of the Masonic Hall in the town of Florence. By whom was it burned? What was the occasion or necessity for its destruction?

(3) State who occupied said building. What use was it put to? How was it situated; isolated or otherwise?

(4) What was the size of the building? Of what materials was it built? What was its real value?

(5) How was said building furnished, and what was the value of said furniture?

(6) If you know anything else concerning the burning of said hall—any cause or occasion for doing so—state it fully.

H. W. SAMPLE,
W. M. Florence Lodge No. 14.

Deposition of Dr. James W. Stewart.

Answer to first interrogatory. I am seventy-three years of age. I reside in Florence, Ala. I am a physician. I have lived in the town of Florence thirty-one years, and in the county of Lauderdale I have lived fifty-two years.

Answer to second interrogatory. I was in Florence at the time of the burning of the Masonic Hall in said town. It was burned by the United States troops, commanded by one Colonel Cornine. It was burned in May, 1863. There was no occasion or necessity for its destruction whatever.

Answer to third interrogatory. No one but the Masons, and they only at stated times. Simply for its library and records, etc. It was on Main street, in Florence, and isolated from all other buildings.

Answer to fourth interrogatory. I don't know exactly the size of the building, but think it was 30 feet wide by 45 in length, two stories high and built of brick; at the time it was burned, the house, library, and furniture was worth at least $5,000 or more.

Answer to fifth interrogatory. It was furnished with suitable stands. With a library, chairs, carpets, jewels, clothing, etc.; the whole, then, was worth fully $1,000.

Answer to sixth interrogatory. I know nothing more, and hereunto set my hand.

JAMES W. STEWART, M. D.

Sworn to and subscribed before me, at Florence, Ala., this December 27, 1883.

NEANDER H. RICE,
U. S. Commissioner.

Deposition of J. M. C. Hooks.

Answer to first interrogatory. I am sixty-six years of age; reside in Florence, Ala.; I am a carpenter by trade; I have lived in Florence since the year 1822.

Answer to second interrogatory. I was in Florence, Ala., the day of the burning of the Masonic Hall; it was burned, I think, in the month of May, 1863, by Colonel Cornine's United States troops; no occasion or necessity for its destruction that I know of.

Answer to third interrogatory. Said building was occupied at stated times by the Masons; it was separate from any other building, and situated on Court street, in Florence.

Answer to fourth interrogatory. I am not certain as to the size of the building; think it was 60 feet front by 30 feet wide, two stories high, built of brick, a fine, large house; said house was worth, at the time it was burned, between four and five thousand dollars.

Answer to fifth interrogatory. As I am not a Mason, I know nothing how the building was furnished, or the value of the furniture. And further, deponent knoweth nothing more, and hereunto sets his hand.

J. M. C. HOOKS.

Sworn to and subscribed before me this December 28, 1883, at Florence, Ala.

NEANDER H. RICE,
U. S. Commissioner.

Deposition of John T. Lehman.

Answer to first interrogatory. I am sixty years of age; I reside in Florence, Ala. have lived in Florence twenty-four years.

Answer to second interrogatory. I was in Florence, Ala., when the Masonic Hall was burned; it was burned in May, 1863, by Colonel Cornine's United States troops; no occasion or necessity of its burning, whatever.

Answer to third interrogatory. The Masons at stated times occupied it; its use was for the Masons and them only; it was situated on Court street in the town of Florence, Ala., and it was separate from any other building.

Answer to fourth interrogatory. It was between 45 and 50 feet front, and 30 feet deep, built of brick, two stories high, and worth at the time of the burning four to five thousand dollars, or more.

Answer to fifth interrogatory. As I am no Mason, I do not know the value of the furniture; only know the house was well furnished and further deponent knows nothing.

JOHN T. LEHMAN.

Sworn to and subscribed before me, at Florence, Ala., this December 28, 1883.

NEANDER H. RICE,
U. S. Commissioner.

Deposition of William Ragsdale.

Answer to first interrogatory. I am fifty-one years of age; I reside in Florence, Ala.; I am a tinner by trade; I have lived in Florence about thirty-four years.

Answer to second interrogatory. I was in Florence at the time of the burning of the Masonic Hall in the town of Florence, Ala.; it was burned by Colonel Cornine's command of United States soldiers; no occasion for its destruction that I know of; it was not used for any other purpose than a Masonic hall.

Answer to third interrogatory. Said building was at stated times occupied by the Masons, and no one else, as a Masonic lodge. It was situated on Court or Main street, in Florence, and was isolated from any other building.

Answer to fourth interrogatory. It was a large house, two stories high, and built of brick; the size of the house was 40 by 70 feet, foundation stone, balance brick, and finished in the best style and finely built. Its cost was between six and seven thousand dollars.

Answer to fifth interrogatory. The building was elegantly furnished with walnut furniture, Brussels carpet, sofas and chairs, chandeliers, robes, jewels, fine library, etc., all worth fully $1,500; besides, the fire destroyed a beautiful grove of trees around the hall.

Answer to sixth interrogatory. Knows no more.

WILLIAM RAGSDALE.

Sworn to and subscribed before me this February 1, 1884.

NEANDER H. RICE,
U. S. Commissioner.

Deposition of William B. Wood.

Answer to first interrogatory. I am sixty-three years of age; reside in Florence, Ala., and have lived there all my life. My last occupation was that of judge of the circuit court. I am now retired.

Answer to second interrogatory. In the year 1863 I was in the Confederate army. I don't know who burned the Masonic Hall, nor the occasion or necessity for its destruction. The building was occupied by the Masons. The lower stories had been used for school-rooms, but was not so occupied at that time. It is situated near the center of a half-acre lot. No other building in 50 feet of it.

Answer to third interrogatory. I was one of the building committee who erected the building. The true size of the house was 70 by 40 feet, two stories high, stone foundation, superstructure of brick. It was elegantly built and finished in the best style. Its original cost was between $6,000 and $7,000.

Answer to fifth interrogatory. The building was elegantly furnished with walnut furniture suitable for a Masonic lodge room, Brussels carpet, sofas and chairs, chandeliers, robes, jewels, library, etc., worth about $1,500. The fire also destroyed a beautiful grove of trees that surrounded the hall, and further deponent saith nothing.

W. B. WOOD.

Sworn to and subscribed before me at Florence, Ala., this December 29, 1883.

NEANDER H. RICE,
U. S. Commissioner.

The committee find further that justice and equity alike demand that the said trustees of said Masonic lodge of Florence, Ala., should be afforded the opportunity to obtain a judicial hearing and finding as to all the facts and circumstances connected with and attendant upon the burning of said building, the damage or loss thereby caused to or inflicted upon said trustees, and the liability of the United States for the destruction of said building, library, furniture, jewels, etc., and that such judicial hearing and finding can only be obtained now before the Court of Claims.

In the Fifty-first Congress the Committee on War Claims made a unanimous favorable report on bill identical to the one now under consideration. (See Report No. 1189, Fifty-first Congress, by Mr. Stone, of Kentucky, chairman of committee.) The bill failed to pass at that time on account of the crowded state of the Calendar.

The committee therefore report the bill back without amendment, and *recommend its passage.*

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 602.

CLAIMS OF CITIZENS OF KANSAS.

MARCH 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2676.]

The Committee on War Claims, to whom was referred the bill (H. R. 2676) to reimburse the State of Kansas for moneys expended in the adjustment and settlement of certain claims of citizens of said State, submit the following report:

This claim was introduced in the Fifty-first Congress and referred to the Committee on War Claims, which committee reported favorably upon it. After an investigation into the facts of the case, the conclusions arrived at by the committee of the Fifty-first Congress are concurred in and their report is, therefore, included as a part of this report.

Your committee recommend that the bill do pass.

[House Report No. 1912, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 6429) to reimburse the State of Kansas for moneys expended in the adjustment and settlement of the claims of citizens of said State for property captured or destroyed by the Confederate forces during the late war, beg leave to report the same back to the House, with an amendment, and when so amended, with the recommendation that it do pass.

This recommendation is based upon the following statement of facts:

Under an act of the legislature of the State of Kansas, approved February 27, 1875, the governor, by and with the consent of the senate of said State, appointed three commissioners to examine, audit, and certify the amount of losses sustained by citizens of that State by the invasion of guerrilla bands led by Quantrell and other Confederate officers during the years 1861, 1862, 1863, 1864, and 1865, in the eastern counties of said State.

These commissioners were authorized to administer oaths and affirmations to witnesses and persons making proof of losses, and were required to make a record of the allowance in each case and issue a certificate, under seal, setting forth the facts, and all claims for indirect damages were excluded.

When said commissioners had completed their work, they certified claims examined and audited amounting to $882,390.11, for which they issued certificates to the claimants.

Under an act of legislature of said State, approved March 5, 1887, provision was made for an adjustment of these claims, and the State, under said act, assumed the payment of the claims for losses which had been examined and certified by the commissioners appointed under the act of her legislature, approved February 27, 1875, to the following amount and extent, and no further, to wit: All claims examined and audited by said commissioners for $1,000 or less, in full; claims for a greater amount than $1,000, 25 per cent only allowed for the excess over $1,000; and in no case was more than $1,500 to be paid on any one claim.

The official report of the commissioners was held to be final and conclusive as to the amounts of losses sustained by persons, firms, companies, and corporations.

The state auditor was required to issue on demand, to each claimant, or his heirs or legal representatives, certificates of indebtedness bearing interest at 4 per cent per annum from July 1, 1887, for the amount of each claim assumed under said act, and before any certificate should be executed he was to require satisfactory proof by affidavit to be made and filed in his office that neither the claimant nor his heirs or legal representatives had ever received any compensation whatever, either directly or indirectly, from the United States, or from any other source, for or on account of such claims, and no warrant or certificate of indebtedness should be issued or delivered to any person under the provisions of said act until such person should make and file with the said State auditor his receipt in full for all claims against the State of Kansas for or on account of losses sustained by him by the invasion of the State by guerrilla bands, as were examined and certified by said board of commissioners under the act of February 27, 1875.

And it further appears that the auditor, under the act of March 5, 1887, has adjusted and audited the said claims reported by said commission, and has issued certificates of indebtedness amounting to $352,012.46, and reports that there are $10,000 of claims still outstanding and unsettled.

Thus it appears that the State by her scaling process, under said act of March 5, 1887, has cut down these claims from $882,390.11 to $362,012.46, and, by the requirement made of each claimant to receipt in full for his claim, has reduced the amount of her legal obligation to $362.012.46.

Your committee, therefore, would most respectfully recommend that the bill be so amended that the sum of $362,012.46 be allowed.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 603.

ESTHER A. KEYSER.

MARCH 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HEMPHILL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 3897.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 3897) for the relief of Esther A. Keyser, have considered the same, and report it back to the House with the recommendation that it do pass, with the following amendment to be added to the end of the bill:

Provided, That the amount paid under this act shall not exceed two thousand and thirty-six dollars and sixty-one cents.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 604.

H. W. SHACKLETT.

MARCH 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5719.]

The Committee on War Claims, to whom was referred the bill (H. R. 5719) for the relief of Harriet W. Shacklett, submit the following report:

The Committee on War Claims of the Fiftieth Congress, to whom was referred the above-mentioned claim, not being fully and clearly advised of all the facts in the case, referred the same to the Court of Claims for a finding of facts under the provisions of the act of March 3, 1883, commonly known as the "Bowman act."

The claim has been returned to said committee with the annexed findings of fact.

Your committee recommend the passage of the bill with the following amendment:

In line 6 strike out "fifty-nine" and insert "ninety-seven."

[Court of Claims. Congressional, No. 2096. Harriet W. Shacklett *vs.* The United States.]

This case, being a claim for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, the court, on a preliminary inquiry, finds that said Harriet W. Shacklett, the person alleged to have furnished such supplies or stores, or from whom the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

BY THE COURT.

This claimant has been found loyal by the Committee on Claims of two Congresses and so reported to the House of Representatives by each committee.

BY THE COURT.

Filed May 25, 1891.

[Court of Claims. Congressional case No. 2096. Harriet W. Shacklett *vs.* The United States.]

At a Court of Claims held in the city of Washington on the 25th day of January, A. D. 1892, the court filed the following statement of the case and findings of fact, to wit:

STATEMENT OF CASE.

The claim in the above-entitled case for supplies or stores taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion was transmitted to the court by the Committee on War Claims, House of Representatives, on the 3d February, 1888.

P. E. Dye, esq., appeared for claimant, and the Attorney-General, by James H. Nixon, esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry the court, on the 25th day of May, 1891, found that the person alleged to have furnished the supplies or stores, or from whom they were alleged to have been taken, was loyal to the Government of the United States throughout said war.

The case was brought to a hearing on its merits on the 9th day of November, 1891. The claimant in her petition makes the following allegations:

That she is a citizen of the United States; that she resided during the late war of the rebellion at or near Salem, in the county of Fauquier, State of Virginia; and that she has a claim against the United States for supplies and stores taken by or furnished to the Army of the United States for army use, at or near Salem, in said county and State, during the years 1862, 1863, 1864, and 1865, as follows:

4 cows, at $25	$100.00
2 horses, at $117.50	235.00
2 barrels flour, at $15	30.00
900 pounds bacon, at 20 cents	180.00
2 cows, at $50	100.00
1 horse	150.00
500 pounds tobacco, at $2	1,000.00
2 cows, at $50	100.00
1 old horse	40.00
3 stoves	70.00
Total	2,105.00

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT:

I.

The court finds that the tobacco of the claimant was not taken by or for the use of the United States, but was taken by the unauthorized depredation of soldiers; that the commanding officer collected from the soldiers who took the tobacco $20, which was paid to the claimant; and that the value of the tobacco at the time and place was $500.

The court finds that the fair and reasonable value of the stores and supplies, other than tobacco, taken from the claimant for the use of the Army, was $597.

BY THE COURT.

Filed January 25, 1892.
A true copy.
Test, this 4th day of February, A. D. 1892.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 605.

JOHN M. HIGGINS.

MARCH 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 7090.]

The Committee on War Claims, to whom was referred the bill (H. R. 2289) for the relief of John M. Higgins, submit the following report:

The claim, as stated, is for certain quartermaster stores and commissary supplies, amounting to $3,550.

The papers in the case show that during the years 1859 and 1860 claimant was engaged in business, as a merchant, at Opelika, Alabama, and in the year 1861 he removed to the county of Caldwell, State of Kentucky, leaving a large unsettled business at the former place; that in the month of August, 1861, he returned to Opelika for the purpose of settling up his unsettled business there, and with the expectation of returning again to Kentucky; that while there the armies of the two contending parties to the late war of the rebellion got between him and his home in Kentucky, and, although he tried to do so, he could not return to Kentucky, but could only proceed as far as the town of Dalton, in the State of Georgia, where he remained until 1864; that during the time he resided near Dalton he was engaged in the business of farming; that the Army of the United States took from him stores and supplies of the value of $3,550, and for which he has not been paid.

It appears that the claim was filed in the office of the Quartermaster-General, United States Army, for adjudication, January 20, 1866; that the Quartermaster-General decided that he had no jurisdiction in cases having originated in a State in rebellion. On the question of loyalty your committee can entertain no doubt that Mr. Higgins was throughout the war a loyal friend of the Union in his acts and feelings and in every way.

The proof shows that the stores and supplies taken were used by the Army of the United States, and that the prices charged for them are both reasonable and just.

Your committee, therefore, report herewith a substitute for the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 606.

GEORGE K. KIRCHNER.

MARCH 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2102.]

The Committee on War Claims, to whom was referred the bill (H. R. 2102) for the relief of George K. Kirchner, submit the following report:

This measure was considered by the Committee on Claims of the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 2176, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 6144) to compensate George K. Kirchner for his stock of goods taken and destroyed by Federal soldiers in the year 1862, respectfully report:

It appears from the evidence that on the 1st day of January, 1862, the claimant, George K. Kirchner, was the owner and keeper of a cigar, tobacco, and grocery store in the town of Anna, in Union County, Ill., and that on or about January 1, A. D. 1862, certain Union soldiers belonging to the Fifty-fourth Regiment Illinois Volunteers broke and entered into his store and carried off almost his entire stock of goods, broke and destroyed his furniture, mirrors, etc., and greatly injured his business house, thereby causing him great damage, loss of business, etc., a detailed statement of which appears in the following sworn statement and application by said Kirchner:

The United States to George K. Kirchner, Dr.

January 1, 1862.	
11,000 cigars, at $30 per 1,000	$330.00
6,000 cigars, at $40 per 1,000	240.00
4,000 cigars, at $50 per 1,000	200.00
Chewing tobacco	115.00
Smoking tobacco	45.00
Pipes and smokers' articles	85.00
Snuff	15.00
Candies and candy jars	95.00
Large looking-glass and furniture	45.00
Cheese and crackers, cakes, etc	25.00
Work and repairs on building	95.00
Damages in loss of business	600.00
Total	1,890.00

STATE OF ILLINOIS, *County of Jackson, ss:*

Personally appeared before me, a justice of the peace in and for the said county, George K. Kirchner, who being duly sworn according to law, deposes and says that he is a citizen of the county of Jackson, and State of Illinois; that the above account is correct and just; that he has made no charge therein for damages, or for losses sustained by thefts or depredations committed by troops; that the stores, as above enumerated, were taken from him in the county of Union and State of Illinois, on or about the 1st day of January, 1862, by troops of the Fifty-fourth Regiment Illinois Volunteers, under Colonel Harris and Colonel McCarthy, for the use of, and were used by, the United States Army; that the value thereof was $1,890, which amount he claims under act July 4, 1864, and hereby makes application for the same. He further says that no receipt or voucher has been received therefor, he having no knowledge of the course or way to proceed in the case, and could not, nor did not take proper steps to collect the same; that no payment has been made, or compensation received in any way, or from any source whatever, for the whole or any part of said claim; that it has not been transferred to any person or persons whomsoever; that the rates or prices charged are reasonable and just, and do not exceed the market rate or price of the stores at the time and place stated; and I, George K. Kirchner, do solemnly swear, in the presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder; and that I will in like manner abide by and faithfully support all acts of Congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by Congress or by decision of the Supreme Court; and that I will in like manner abide by and faithfully support all proclamations of the President, made during the existing rebellion, having reference to slaves, so long and so far as not modified or declared void by the decision of the Supreme Court. So help me God.

And I hereby appoint D. S. White, of Du Quoin, Ill., my true and lawful agent and attorney for me, and in my name, to present this my claim for collection, and to do any and all legal acts necessary for its conversion into money.

GEORGE K. KIRCHNER.

JOHN CORGAN.
J. E. TERPINITZ.

Also, personally appeared before me John Corgan and J. E. Terpinitz, citizens of the county of Union and the State of Illinois, who, being duly sworn according to law, depose and say that they have carefully read the foregoing affidavit of George K. Kirchner, and to the best of their knowledge and belief the facts therein stated are true, and that the stores charged for, namely:

January 1, 1862.

11,000 cigars, at $30 per 1,000	$330.00
6,000 cigars, at $40 per 1,000	240.00
4,000 cigars, at $50 per 1,000	200.00
Chewing tobacco	115.00
Smoking tobacco	45.00
Pipes and smokers' articles	85.00
Snuff	15.00
Candies and candy jars	95.00
Looking-glass and furniture	45.00
Cheese, crackers, cakes, etc	25.00
Work and repairs on building	95.00
Damages by loss of business	600.00
Total	1,890.00

Were delivered, as stated, for the use of the United States Army, and that the charges were the market price at the time of said delivery; they further say that they are well acquainted with the said claimant, and know that he was, at the time his claim originated, and has been ever since, loyal to the United States; that they know the facts stated in the above affidavit are true, because they were residing at Anna, Ill., at the time the goods were taken by the said troops, as above stated, from the said George K. Kirchner, then doing business in the town of Anna, Union County, Ill., on the 1st day of January, A. D. 1862, and that they have no interest in the above claim.

JOHN CORGAN.
J. E. TERPINITZ.

L. W. NIMMO,
Witness to Signatures.

Sworn to, acknowledged, and subscribed before me at Jonesboro, Ill., the 5th day of May, 1879, and I certify I have no interest in the above claim.

DANIEL HILLMAN, J. P.

I certify that I am postmaster at Jonesboro, and am well acquainted with the above-named deponents; that George K. Kirchner, the claimant, was, at the time the foregoing account originated, has been ever since, and is now, loyal to the United States; that John Corgan and J. E. Terpinitz are respectable, worthy, and entitled to credit.

Dated at Jonesboro, Ill., the 4th day of May, 1879.

DAVIS W. MILLER, *Postmaster.*

STATE OF ILLINOIS, *County of Union, to wit:*

I, William S. Hanners, clerk of the county court in and for said county, certify that George K. Kirchner is a citizen of the county of Jackson and State of Illinois, and that he is respectable and entitled to credit. I also certify that the above is the genuine signature of Daniel Hiliman, esq., who was at the time of subscribing the same a duly qualified justice of the peace in and for said county, and that his official acts are entitled to full faith and credit. I also certify that the above is the genuine signature of Davis W. Miller, postmaster.

In testimony whereof I have hereunto set my hand and affixed the seal of the said county at Jonesboro the 5th day of May, 1879.

[L. S.]

WM. S. HANNERS,
Clerk of the County Court.
L. W. NIMNO, *Deputy.*

That said Kirchner has never received any pay or compensation whatever for said goods and damages; that they were taken without his consent by Union soldiers stationed at the town where he was then doing business; that the loyalty of said George K. Kirchner is abundantly shown and proven by the following affidavits of various citizens and residents of said town as is also the taking of such goods and injury of his property.

STATE OF ILLINOIS, *Union County:*

John Corgan, who, being duly sworn, says that he has resided in the city of Anna during the late war from 1860 to the end of the war; that he was well acquainted with George K. Kirchner, who was and is a loyal man; that on the 1st day of January, 1862, he kept a cigar factory and confectionery on Main street, in Anna; that the soldiers of the Fifty-fourth Regiment, then stationed at Anna, broke in his (Kirchner's) store and destroyed the entire establishment, the goods, and broke the windows and doors, which must have damaged him several hundred dollars.

JOHN CORGAN.

Subscribed and sworn to before me this 29th day of April, 1879.

JOSEPH P. BOHANNON,
Justice of the Peace.

STATE OF ILLINOIS, *Union County:*

We, the undersigned, citizens of Union County, Ill., say, upon our oaths, that we are and were well acquainted with George K. Kirchner in the early part of the late war; that he was and is a loyal man; that he kept a cigar manufactory and confectionery on Main street, in the town of Anna, Union County, Ill.; that a lot of soldiers from some of the regiments then stationed here took possession or broke into his store and broke up his fixtures and carried off a lot of his goods, and damaged his house by breaking the windows and doors. We believe the damage was done in 1861 or 1862.

W. KIRKPATRICK.	C. NORDLING.
C. KIRKPATRICK.	ZADOK ELMS.
JAMES I. TOLER, Sr.	J. E. LEUTZ.
FREDRICH SCHAFFER.	G. W. ELMS.
JACOB VERTH.	JAMES I. TOLER.
MICHAEL UFFURDA.	WILBURN CASEY.

Subscribed and sworn to before me this 1st day of May, 1879.

JOSEHH P. BOHANNON,
Justice of the Peace.

STATE OF ILLINOIS, *Union County:*

Edward Terpinitz, of the county of Union and State of Illinois, city of Anna, deposes and says, on his oath, that he has resided in said city since 1859; that he is well acquainted with George K. Kirchner; that the said George K. Kirchner resided in Anna in 1861 and 1862 and kept a cigar factory and confectionery; that on the first day of January, 1862, a part of the Fifty-fourth Regiment Illinois Volunteers, who was stationed at Anna, broke into said G. K. Kirchner's store and carried off and eat up nearly all his goods and entirely broke up his store, and broke his glass windows

and doors, and a large looking-glass, and generally demolished his store and the fixtures and goods therein; and in regard to the loss sustained by Mr. Kirchner in consequence of the loss of goods stolen, damage of property, and loss of time by being out of business, must have amounted to $1,200 or $1,500. I have been acquainted with G. K. Kirchner since 1859 and know him to be a loyal man, and supported the measures of the Government at that particular time and now.

E. TERPINITZ.

Subscribed and sworn to before me this 1st day of May, 1879.

JOSEPH P. BOHANNON, *J. P.*

That he can obtain relief only by act of Congress is shown by the following letter from the Comptroller of the Treasury:

TREASURY DEPARTMENT,
SECOND COMPTROLLER'S OFFICE,
Washington, September 30, 1884.

SIR: Your letter of the 22d instant is received. Your claim for damages to your stock and building and by loss of business, etc., was reported by the Auditor with recommendation to disallow it, and it has been disallowed.

The claim is not disallowed for want of merit, but because the accounting officers have no authority to settle or to consider any such claims. Their authority is limited to claims arising on contract express or implied. There is no law giving them power to settle claims for losses caused by the mere casualties of war, or by the unlawful or unauthorized acts of the soldiers.

Your only mode of obtaining relief now is by petition to Congress.

W. W. UPTON.
Comptroller.

GEO. KIRCHNER, Esq.,
Pueblo, Colo.

Your committee being of the opinion that said Kirchner should be compensated for his stock of goods so lost and the damages by him thereby sustained, recommend that the bill do pass, with the following amendment, viz: In line 7 strike out the first word "nine," and in lieu thereof insert the word "two," and in same line strike out the word "sixty," and insert in lieu thereof the word "ninety."

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 607.

EDWARD A. BUDER.

MARCH 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2090.]

The Committee on War Claims, to whom was referred the bill (H. R. 2090) for the relief of Edward A. Buder, submit the following report:

This measure was considered by this committee in the Fifty-first Congress, and was reported upon favorably (Report No. 3059), which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 3059, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 11231) for the relief of Mr. Edward A. Buder, successor of E. & W. Buder, of Cairo, Ill., having duly considered the same and the evidence filed in support of the claim, beg leave to report as follows:

It is fully established by the evidence that during the war, from 1861 to 1865, E. & W. Buder were doing business as jewelers in the city of Cairo, Ill.; that in the month of February, A. D. 1865, to wit, on the 8th day of February, 1865, quite a number of Federal soldiers, being members of the Fifteenth Army Corps, under the command of Gen. A. J. Smith, raided a number of business houses in said city of Cairo, and that among the houses so raided was the business house of said E. & W. Buder; that said soldiers broke the front windows of said business house of said Buders and took from them a large quantity of jewelry and goods, besides damage done by breaking said windows, amounting to the sum of $1,421; that said property so taken and the damage done by said soldiers is as follows:

EXHIBIT A.

CAIRO, ILL., *February 8, 1865.*

Stolen and destroyed by United States soldiers from Edward A. Buder, successor to E. & W. Buder, wholesale dealers in watches, clocks, jewelry, watch materials, tools, etc., Washington avenue, corner Eighth street.

3 gold watches, at $125	$375
5 silver English patent-lever watches, at $50	250
6 silver detached patent-lever watches, at $30	180
4 silver verge watches, at $10	40
2 gold chains, at $25	50
2 gold sets, at $20	40
2 roll-plated sets, at $8	16
4 gold rings, at $5	20
5 silver napkin-rings, at $4	20
Watch material destroyed	150
Damage on repaired watches	150
Damage on jewelry	25
Damage on work not repaired	75
3 lights of glass, at $10	30
	1,421

STATE OF ILLINOIS, *Alexander County, ss:*

I, Edward A. Buder, being duly sworn, declare and say that I was a member of Company A, Third Missouri U. S. Reserve Corps, during the war of the rebellion; that I have always been a loyal citizen of the United States; that I am successor to the firm of E. & W. Buder, jewelers, doing business in Cairo, Alexander County, Ill, in February, 1865; that on the 8th day of said month, at 4 o'clock p. m., members of the Fifteenth Army Corps, under command of Gen. A. J. Smith, raided various business houses in this city, among them that of the said firm of E. & W. Buder, breaking the front window of the business place of said firm and taking therefrom watches and other jewelry as per accompanying statement, marked "Exhibit A," to the value of $1,421; that the claim was filed with Gen. Smith the day following the raid by his order, but that it did not reach the War Department, I am informed, until after the said Fifteenth Army Corps had been mustered out of service, when the claim was filed in the War Department against Gen. A. J. Smith. I further state that I have been a resident of Cairo, Alexander County, Ill., ever since said raid; that my present post-office address is 701 Comm. ave., Cairo, Ill.

EDWARD A. BUDER.

Subscribed and sworn to before me this 9th day of June, 1890.
[SEAL.] ALFRED COMINGS,
Notary Public.

That Edward A. Buder is the successor of said firm of E. & W. Buder is fully shown by the agreement of dissolution signed by both.

EXHIBIT B.

This agreement, made and entered into this 31st day of July, A. D. 1877, by and between Edward Buder and William Buder, of Cairo, Ill.: Witnesseth, That the copartnership heretofore existing between them under the firm name E. & W. Buder, in the jewelry business, at said place, is this day dissolved by mutual consent. The assets of the old firm, with the exception of that which is hereinafter designated, shall belong to and be assigned to Edward Buder, who assumes all the liabilities of the old firm, and agrees to discharge the same.

The said William Buder assigns all his right, title, and interest in and to the property and assets of the said firm agreed to be transferred to Edward Buder, and agrees to furnish a conveyance of dower on the part of his wife in the real estate appearing on the books of the firm, for the sum of $2,000 to him in hand paid by said Edward Buder, as per statement made, there being in such statement certain assets of the firm which said Edward Buder agrees to deliver and assign to said William Buder or his assigns.

Witness our hands and seals at St. Louis, Mo., this 30th day of July, A. D. 1877.

EDWARD BUDER. [SEAL.]
WM. BUDER. [SEAL.]

STATE OF ILLINOIS, *Alexander County, ss:*

I, Edward Buder, being duly sworn, declare and say that the above is a true and correct copy of the assignment to me of all the assets of the old firm of E. & W. Buder.

EDWARD A. BUDER.

Subscribed and sworn to before me this the 9th day of June, A. D. 1890.
[SEAL.] ALFRED COMINGS,
Notary Public.

That due diligence was and has been used by said Buder to secure pay from the Government for said loss and damages is fully established. It is thoroughly established that before, during, and since said war of the rebellion the said Edward A. Buder and W. Buder were loyal to the Government, Mr. Edward A. Buder being a soldier in Company A, Third Missouri U. S. Reserve Corps. during the war of the rebellion. The loyalty of said Edward A. and W. Buder is sworn to by quite a number of established and reputable gentlemen, who were during said war and since have been citizens of and residents in said city of Cairo. That the said soldiers did break into said store of E. & W. Buder on the said 8th of February, 1865, and take therefrom goods is sworn to by a number of reputable citizens and residents who were eye-witnesses of the act.

Your committee believe this a very meritorions case and fully proven by the evidence presented and filed with your committee. We therefore report said bill back to the House with the recommendation that the same do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 608.

JOHN HEBERER.

MARCH 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3364.]

The Committee on War Claims, to whom was referred the bill (H. R. 3364) for the relief of John Heberer, submit the following report:

This measure was considered by this committee in the Forty-eighth Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 956, Forty-eighth Congress, first session.]

This claim, under a bill similar in all respects to the present, was before the Committee on Military Affairs at the first session of the Forty-third Congress; was then fully investigated, and a favorable report made thereon.

Upon a reëxamination of the claim, your committee have reached the same favorable conclusion, and as the facts are fully set forth in the report of the Committee on Military Affairs, it is adopted as the report of your committee in the premisses, as follows:

[House Report No. 340, Forty-third Congress, first session.]

The Committee on Military Affairs, to whom was referred the claim of John Heberer, of Monroe County, in the State of Illinois, asking compensation for services as enrolling officer, and expenses incurred in the discharge of his duties as such, make the following report:

The claimant, John Heberer, alleges that in the month of May, 1864, he was duly appointed enrolling officer of subdistrict No. 42, Monroe County, Illinois, by George Abbott, provost marshal of the twelfth Congressional district of Illinois; that in pursuance of said appointment he entered on his duties, and completed said enrollment in the months of May and June.

That about the 1st of August of the same year he was ordered to make a second enrollment, under new instructions, upon which duty he entered at once, and completed the same in September.

That in October thereafter he was ordered to serve draft notices, and employ assistance if necessary, and that the same did become necessary, and that he employed several persons to assist therein, and paid them, out of his own money, $3 per day, and for which services and money by him so paid he presents the following account, to wit:

United States, to John Heberer, jr., Dr.

To services as enrolling officer subdistrict No. 42, Monroe County, Illinois, from May 14, 1864, to June 25, 1864, 34 days, at $3 per day $102.00

To services as enrolling officer same district, from August 16, 1864, to September 23, 1864, 30 days, at $3..... 90.00

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 609.

J. P. RANDOLPH.

MARCH 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1231.]

The Committee on War Claims, to whom was referred the bill (H. R. 1231) for the relief of J. P. Randolph, administrator of J. G. Randolph, deceased, respectfully report:

This is a claim for commissary supplies furnished the Army of the United States during the late war. Claim is for—

967 pounds of salt pork, at 25 cents per pound	$241.75
One yoke of oxen	150.00
Total	391.75

It appears from the proof filed in support of the claim that the decedent filed his claim for quartermaster's stores and commissary supplies in the office of the Quartermaster-General, under the act of July 4, 1864. The Quartermaster-General found the decedent loyal, and recommended that the estate be paid $185.50 for quartermaster's stores taken for the use of the Army, and the estate was paid that amount.

The claim for commissary supplies, stated at $391.75, was disallowed by the Commissary-General, for the reason that he was not convinced of the loyalty of the decedent.

Your committee is of opinion that injustice was done the decedent by the Commissary-General, as the loyalty of the decedent was clearly established before the Quartermaster-General. The decedent was a pensioner of the United States as survivor of the war of 1812. The taking, use, and value of the stores are fully established.

Your committee, therefore, report back the bill and recommend its passage, with the following amendment: Insert after "Randolph," in the title of the bill, "administrator of J. G. Randolph, deceased."

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52d CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 610.

NICHOLAS G. CHESBROUGH.

MARCH 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PATTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2944.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2944) for the relief of Nicholas G. Chesbrough, having had the same under consideration, submit the following:

It appears from evidence herewith submitted, and not refuted by the War Department records, that Nicholas G. Chesebro (properly Chesbrough) was enrolled August 3, 1862, to serve three years, with Company D, One hundred and second Illinois Volunteers; that he served faithfully under orders until August, 1864, at which time he had been for several months on detached service, and being relieved by order of his commanding officer seemed to assume that he was discharged. It appears from all the evidence that the soldier had no intention of deserting his service, and, in view of the facts herein set forth, the committee recommend that the bill (H. R. 2944) do pass, with the amendment, providing no pay or allowance become due on account of this act.

STATE OF ILLINOIS, *County of Cook, ss:*

On this 28th day of December, 1891, before me ——, a notary public —— within and for the county and State aforesaid, personally appeared Nicholas G. Chesbrough, who, being by me first duly sworn, declares that he enlisted at Galesburg, Ill., August 3, 1862, as sergeant of D Company, One hundred and second Regiment Infantry, Illinois Volunteers, to serve three years. After being regularly mustered in with his company he was detailed for special service, the nature of which is more specifically set forth in papers and documents submitted herewith. That when his services were no longer required in the duties for which he had been detailed he was given a pass and directed to return to his home. That upon his part he was acting conscientiously in obedience to the orders of his superior officer and supposed he had been honorably discharged from the service. He has applied for pension under act of Congress approved June 27, 1890, but the same is now suspended for him to first obtain an honorable discharge. The Adjutant-General of the Army, to whom he applied for such discharge, while admitting the justice of his claim, replies there is no provision under the general law relating to the granting of discharges to volunteer soldiers that meets his case. Hence he makes this appeal asking the Congress of the United States, by special act, to grant him an honorable discharge from the Army.

NICHOLAS G. CHESBROUGH.

Subscribed and sworn to before me this 28th day of December, 1891, and I certify that the contents of the foregoing affidavit was fully made known and explained to witness and each of the blank spaces carefully filled before signing or swearing, and that I have *no interest* whatever in the prosecution of this claim.

[SEAL.] HATTIE S. HIGGINS, Notary Public.

HEADQUARTERS SIXTH CAVALRY,
Fort Niobrara, Nebr., November 12, 1891.

This is to certify that N. G. Chesbrough, a sergeant of Company D, One hundred and second Regiment, Illinois Volunteers, was at Helena, Ark., in the year 1862, under my command; that I detailed him as superintendent of mechanics, at which he worked faithfully while I remained; *i. e.*, till about October 1 of that year. I have no doubt that he worked on till August, 1864, and then being relieved by his superior officer supposed that he was formally discharged the service.

E. H. CARR,
Colonel Sixth U. S. Cavalry, late Brigadier and Brevet Major-General of Volunteers.

STATE OF IOWA, *County of Warren, ss:*

On this 22d day of December, 1891, before me, J. H. Derrough, a clerk of the district court within and for the county and State aforesaid, personally appeared Frederick Olive, whom I certify to be respectable and entitled to credence, who being by me first duly sworn, declares his age is 61 years; by occupation he is a wagon-maker; his post-office address is Indianola, Iowa.

This is to certify that Nicolas G. Chesbrough, whom I have personally known for thirty-eight years, enlisted in the One hundred and second Regiment Illinois Volunteers, Company D, at Galesburg, Ill., August 3, 1862, and detailed by Gen. E. A. Carr. Mr. Chesbrough was superintendent of mechanics, in blacksmiths' department, at Helena, Ark., and I was employed to work and superintend the wagon and carpenter shops until after Mr. Chesbrough left, August 25, 1864.

That affiant has no interest whatever in the prosecution of a claim for pension.

FREDERICK OLIVE.

Subscribed and sworn to before me this 22d day of December, 1891, and I certify the contents of the foregoing affidavit was fully made known and explained to witness, and each of the blank spaces carefully filled before signing or swearing, and that I have no interest whatever in the prosecution of this claim.

[SEAL.] J. H. DERROUGH,
Clerk District Court.

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743 ADAMS STREET,
Chicago, December 24, 1891.

This is to certify that I am well acquainted with N. G. Chesbrough, late sergeant Company D, One hundred and second Illinois Regiment Volunteers, and that he was at Helena, Ark., under detail, as superintendent of mechanics, between the dates of August 3, 1862, and August 25, 1864. A portion of this time I was in command of G Company and of Battery A, fortifications at Helena.

WM. H. WILLIAMS,
Late First Lieutenant Sixtieth United States Cavalry Troop.

Hon. ALLAN C. DURBOROW, Jr.,
Member of Congress.

Case of Nicholas G. Chesbrough (Cheseboro), late sergeant, Company D, One hundred and second Illinois Volunteers.

RECORD AND PENSION DIVISION,
February 27, 1892.

Nicholas G. Cheseboro (not borne as Cheshrough) was enrolled August 3, 1862, to serve three years, and was mustered into service September 2, 1862, as a sergeant with Company D, One hundred and second Illinois Volunteers. The company muster roll for September and October, 1862, reports him, sergeant, "Transferred to Gen. Carr brigade, September 15, ——, from Knoxville, Ill." The company muster-out roll, dated June 6, 1865, shows him transferred at Knoxville, Ill., to Gen. Carr's brigade, order of Col. William McMurtry, dated September 13, 1862." The regimental return for October, 1862, gives October 1, 1862, as the date of transfer, while the company descriptive book gives September 15, 1862.

The Quartermaster-General, U. S. Army, reports that N. J. Cheseboro was employed by Capt. W. K. Kennedy, assistant quartermaster in the field, Army of the Southwest, as superintendent of mechanics at $75 per month from June 16 to 30, 1863, when he was discharged, sick, and a voucher given him; and that he was also employed as a blacksmith from January 1 to 31, 1863, when discharged at Helena, Ark.

On June 1, 1891, the soldier applied to this Department for an honorable discharge from Company D, One hundred and second Illinois Volunteers, declaring, under oath, that he was put on duty as clerk on being transferred to Gen. Carr's brigade and afterwards served continuously as superintendent of mechanics under Capt. Kennedy, brigade quartermaster, until August, 1864, when he was "informally discharged, as he was no longer wanted."

In a letter to applicant's attorney dated June 10, 1891, the Department, after setting forth the facts of record in the case, requested a sworn statement from the soldier, detailing the circumstances attending his transfer to "Gen. Carr's brigade" and the nature of the duties performed by him while serving therewith.

On June 13, 1891, the attorney forwarded an affidavit by the applicant, in which he declared that he received a detail from Gen. Carr to serve as a blacksmith, being an expert in that trade; that he was promised extra pay for this service; that he received no discharge, and in obedience to his detail reported to Gen. Carr, who directed him to report to Capt. Kennedy, quartermaster, as he supposed, of Carr's brigade; that after remaining with Capt. Kennedy for about two months he was directed to report to Quartermaster Van Soder (was not certain as to the spelling of the name), who, he believed, was post quartermaster at Helena, Ark.; that he afterwards served under Lieuts. Wheeler and Baird, being employed all this time as general superintendent of the blacksmithing work in the quartermaster's department at Helena, Ark. He further declared that when his services were no longer required at the post he was given "some sort of a paper," which he supposed was a discharge, and that this paper had been destroyed at some time and in some manner unknown to him.

(This affidavit was referred to the Quartermaster-General's Office, and was returned with the report that the applicant was employed as a *civilian* superintendent of mechanics at $100 per month by Capt. S. Baird, assistant quartermaster, Helena, Ark., from September 1, 1863, to July 31, 1864.)

On June 16, 1891, the application was denied for the reason that the case was not covered by the act of Congress approved March 2, 1889, as the soldier did not serve until May 1, 1865, and was not prevented from completing his term of enlistment by physical disability incurred in the line of duty, and for the further reason that the official records clearly showed that at various periods subsequent to September 15, 1863, he was employed in the Quartermaster's Department as a civilian.

Since the date of that communication the status of the case has not been changed.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 611.

HENRY POLITE CARSON.

MARCH 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2167.]

The Committee on War Claims, to whom was referred the bill (H. R. 2167) for the relief of Henry Polite Carson, submit the following report:

This is a claim for services alleged to have been rendered by Henry Polite Carson as a scout during the late war. Claim stated at $500.

We find from an affidavit of Col. Edward Hatch, Ninth United States Cavalry, that said claimant was hired for six months during the years 1862 and 1863 as a scout and guide, and that said employment was by direction of Gen. Gordon Granger; that there was an agreement to pay him $500 for the service rendered; that said sum was never paid.

The claimant is poor and blind, and your committee is of opinion he should be paid for the services he rendered, and report back the bill and recommend its passage.

WAR DEPARTMENT,
Washington City, March 4, 1892.

SIR: In compliance with your request received to-day, I am directed by the Secretary of War to transmit herewith copies of the affidavits filed in this Department in the claim of Henry Polite Carson.

Very respectfully,

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

Hon. JOHN J. SEERLEY,
House of Representatives.

STATE OF NEBRASKA, *County of Dawes, ss:*

In the matter of application of Henry P. Carson, alias Henry Prince, alias Henry Polite, for pay as guide in the late war, for Second Iowa Cavalry Volunteers.

Personally came before me, a notary public in and for aforesaid county and State, Gen. Edward Hatch, aged 55 years, citizen of the town of Fort Robinson, county of Dawes, State of Nebraska, well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows:

Henry P. Carson was employed in my command as a guide and scout during the last six months of the year 1862 and most of the year 1863 in Northern Mississippi and Alabama and Tennessee by direction of Gen. Gordon Granger. There was an agreement to pay him for his services $500. I have no knowledge of the payment having been made to him. A small amount for the services rendered. He further declares that he has no interest in said case, and is not concerned in its prosecution.

EDWARD HATCH,
Late Brigadier-General Volunteers,
Brevet Major-General, Colonel Ninth Cavalry.

Sworn to and subscribed before me this day by the above-named affiant; and I certify that I read said affidavit to said affiant and acquainted him with its contents before he executed the same. I further certify that I am in no wise interested in said case, nor am I concerned in its prosecution; and that said affiant is personally known to me; that he is a creditable person, and so reputed in the community in which he resides.

Witness my hand and official seal this 19th day of October, 1887.

L. V. FREEMAN,
Notary Public.

STATE OF NEBRASKA, *County of Dawes, ss:*

I, Robert Dickson, clerk of the county in and for aforesaid county and State, do certify that L. V. Freeman, esq., who hath signed his name to the foregoing affidavit, was at the time of doing so a notary public in and for said county and State, duly commissioned and sworn; that all his official acts are entitled to full faith and credit, and that his signature thereunto is genuine.

Witness my hand and seal of office this 22d day of October, 1887.

ROBERT DICKSON,
Clerk of Dawes County, Nebr.
By J. F. TUCKER,
Deputy.

STATE OF CALIFORNIA, *San Diego County, ss.:*

I, Datus E. Coon, being duly sworn, do state that Henry P. Carson was employed in the command of Gen. Edward Hatch as a guide and scout during a part of the year 1862 and a part of the year 1863, in northern Mississippi and Alabama and Tennessee, by direction of Gen. Gordon Granger.

I was not aware of the conditions, or amount of the agreement, but, in my opinion, $500 would be small compensation for the services rendered. I have no knowledge of any payment having been made to Carson for his services.

DATUS E. COON.

Subscribed and sworn to before me this 27th day of December, 1887.

C. E. HEATH,
Notary Public.

STATE OF IOWA, *county of Muscatine:*

On this 18th day of June, 1888, personally came before me, a notary public in and for the aforesaid county, Charles C. Horton, who, being duly sworn, states as follows:

I was late major and lieutenant-colonel Second Iowa Cavalry, commanding regiment, and was well acquainted with one Henry Polite, alias Carson, who joined the regiment some time in 1862.

Polite, as he was known in the regiment, was generally employed as servant to Gen. Coon, but was, because of his knowledge of the country and familiarity with the roads of northern Mississippi and southern Tennessee, very often employed as guide and scout for our regiment, as also for Gen. Coon and Gen. E. Hatch.

While I am unable to state from personal knowledge that the said Henry Polite was regularly employed as scout and guide by order of Gen. Granger, as claimed, I do know that he was often employed by both Gens. Hatch and Coon in such capacity, and that at times such services were invaluable to the Government.

In my opinion $500 is a very moderate sum as compensation for said service.

So far as I know or have any information, claimant was not paid for his services as hereinbefore stated. Post-office address Muscatine, Iowa.

I have no interest in the prosecution of this claim.

CHAS. C. HORTON,
Late Lieutenant-Colonel, Commanding Second Iowa Cavalry Volunteers.

Sworn to and subscribed before me the day and year first above written, and I certify that affiant is respectable and entitled to credit, and that I have no interest in this claim, and that the contents of this affidavit were made known to affiant before signing.

Witness my hand and official seal.

Certificate on file.

A. B. CARPENTER,
Notary Public.

STATE OF IOWA, *Louisa County, ss:*

In the matter of the application of Henry P. Carson, now of Wapello, Iowa, for pay as scout and guide to Gen. Edward Hatch, late colonel of Second Iowa Cavalry Volunteers, war of 1861–1865, I, Henry P. Carson, being on my oath duly sworn, do state that I am 52 years of age; that I am the identical Henry Polite who acted as scout and guide to Gen. Edward Hatch, formerly colonel of the Second Iowa Cavalry, in the war of 1861 and 1865, under orders from Gen. Gordon Granger, then at Rienzi, Miss., the last half of the year 1862 and most of the year 1863; that for my services as scout and guide I was allowed for pay the sum of $500; that I never received said sum of money for my services or any part thereof; that I hereby make application for the same, and most respectfully ask the allowance of my said claim; that I hereby appoint, with full power of substitution and revocation, C. M. Wright my true and lawful attorney to prosecute my claim; that my residence is Wapello, Louisa County, Iowa, and my post-office address is Wapello, Louisa County, Iowa.

HENRY P. (his x mark) CARSON.

Two witnesses:
G. W. THOMAS,
JACOB C. HUNSACKER.

Subscribed and sworn to before me this 2d day of November, 1887; and I hereby certify that affiant is respectable and entitled to credit, and that I have no interest in the prosecution of this claim.

[SEAL.]

G. W. THOMAS,
Clerk District Court.

STATE OF IOWA, *Louisa County, ss:*

On this —— day of June, 1889, personally appeared before me, clerk of the district court in the aforesaid county and State, Henry P. Carson, alias Henry Polite, aged 53 years, resident of Wapello, Iowa, whose post-office address is Wapello, Louisa County, Iowa, who being duly sworn, upon his oath states:

That he is claimant above named; that he was appointed as scout and guide to the Second Iowa Cavalry in the late war about July, 1862, by Gen. Gordon Granger, now deceased.

That he is unable to furnish the certificate of his appointment for the reason that the same was lost years ago.

That he is unable to furnish the testimony of the officer who appointed him, namely, Gen. Gordon Granger, for the reason that said officer is dead.

That in proof his appointment and service as such guide and scout claimant submits the testimony of Gen. Edward Hatch, Gen. Datus E. Coon, and Col. C. C. Horton, all commissioned officers of the Second Iowa Cavalry, all of whom state that he was entitled to $500 for his said services.

That his services as such scout and guide continued from July, 1862, to the last part of 1863.

That I never received said sum of $500, or any part thereof, for my services, for the reason that on the day I should have drawn it I was absent on a scouting expedition, and that subsequently, and before I could have drawn my pay, I lost my pay roll and other papers pertaining to said service, by the sinking of the steamboat *James White* at Island No. 10.

HENRY (his x mark) P. CARSON, alias HENRY POLITE.

Witnesses to mark:
ED. HICKLIN.
OSCAR HALE.

Subscribed and sworn to before me, by said Henry P. Carson, alias Henry Polite and I certify that affiant is respectable and entitled to credit, and that he was fully acquainted with the contents of the foregoing affidavit before signing and swearing to the same; and I have no interest in this claim.

[SEAL.]

H. M. HOLLER,
Clerk of the District Court in and for Louisa County, Iowa.

CLAIMANT'S APPEAL TO THE SECRETARY OF WAR.

STATE OF IOWA, *Louisa County, ss:*

On this 30th day of July, 1891, in matter of claim for pay, as scout and guide in the late war, of Henry P. Carson, alias Henry Polite, No. 2273–C, 1889, Henry P. *Carson, alias Polite,* claimant, personally came before me, clerk of the district court

in and for said county and State, Henry P. Carson, alias Henry Polite, aged 54, a citizen of the town of Wapello, Louisa County, Iowa, well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows, viz:

That his claim for pay as late scout and guide to Second Iowa Cavalry, war of 1861-1865, No. 2273-C, 1889, having been rejected for the following reason, viz, a failure to file his appointment and certificate of appointment, the claimant appeals for a reconsideration of his said claim, for the reasons: He can not file his appointment or a certificate thereof from the officer who appointed him because of death of the officer who appointed him, and the additional reasons set out in his (claimant's) sworn statement of date June 25, 1889, to which reference is hereby made, said statement being on file, with additional statements in this case, in the War Department, U. S. Army, at Washington, D. C.

That the testimony of commissioned, field, and staff officers show conclusively that claimant acted in the capacity of scout and guide to aforesaid regiment about eighteen months in 1862 and 1863, in good faith, and that he was to have been paid for his said services, and that his said services were reasonably worth the amount shown to have been allowed to him. Wherefore, and by reason of the premises, and in all equity and justice, claimant should be allowed his said pay as heretofore prayed.

He hereby appoints, with full power of substitution and revocation, Charles M. Wright, of Wapello, Iowa, as his true and lawful attorney, to prosecute this, his claim

His post-office address is Wapello, Louisa County, Iowa.

HENRY P. (his x mark) CARSON, alias HENRY POLITE.

Witnesses:

R. E. ARCHIBALD.
A. W. JARVIS.

Sworn to and subscribed before me this day by above-named affiant, and I certify that I read said affidavit to said affiant and acquainted him with its contents before he executed the same. I further certify that I am in no wise interested in said claim nor concerned in its prosecution.

[SEAL.] H. M. HOLLER,
Clerk District Court in and for Louisa County, Iowa.

Official copies respectfully furnished for the information of Hon. John J. Seerley. By authority of the Secretary of War.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 612.

GUSTAVUS F. JOCKNICK.

MARCH 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 7091.]

The Committee on War Claims, to whom was referred the petition of Gustavus F. Jocknick, submit the following report:

The facts out of which this claim for relief arises will be found stated in House report from the Committee on Claims of the Forty-third Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and report herewith a bill and recommend its passage.

[House Report No. 661, Forty-third Congress, first session.]

In May, 1869, Silas H. Swetland was appointed by the Secretary of the Interior to make payment of certain moneys to the Eastern Cherokees in North Carolina; and, at the same time, the Secretary directed the Commissioner of Indian Affairs to detail a clerk of the Department to witness the payments, the detail to be made "with particular reference to personal integrity and tried experience as an accountant, as also his qualifications to judge of the evidence filed in support of the claim of legal representatives," etc.

Mr. Jocknick, being a clerk in the Department, was selected by the Commissioner of Indian Affairs and detailed to accompany Swetland and witness the payments. He did not seek this duty, nor was he consulted as to his wishes in the matter.

The payments were made, so far as Swetland had funds in his hands to make them, and all the payments made were witnessed by Mr. Jocknick.

Long afterward, and about the 29th day of March, 1873, Mr. Jocknick was arrested at his desk in the Department of the Interior, upon the charge, preferred against him in the United States circuit court for the western district of North Carolina, of conspiracy to defraud the Eastern Cherokee Indians. This was the first intimation he had that his actions were not fully approved, both by the Indians and the Department.

At the May term, 1873, of the circuit court, held at Asheville, Mr. Jocknick appeared with his witnesses and counsel. When the case was called, the United States attorney moved the court to enter a *nolle prosequi* as to Mr. Jocknick; whereupon the following proceedings were had:

In the circuit court of the United States in and for the western district of North Carolina.

UNITED STATES
vs.
S. H. SWETLAND, G. F. JOCKNICK, AND OTHERS, }

The above criminal action having come on to be tried before this court at the May term, 1873, thereof, holden at Asheville, in the county of Buncombe and the State of North Carolina, and a motion having been made by the district attorney on behalf of

the United States to enter a *nolle prosequi* and dismiss the indictment as against the defendant, the said Gustavus F. Jocknick; and the court, the Honorable Robert P. Dick presiding, having directed a suspension of the entry of a *nolle prosequi* as to the said defendant until the evidence on his behalf should be heard by the court; and the evidence on his behalf having been offered, heard, and considered by the court:

It is considered by the court that the district attorney have leave to enter a *nolle prosequi* in the action as to the said Gustavus F. Jocknick; that the action of the said district attorney in so doing is proper and approved.

It is further considered by the court that the evidence offered on behalf of the said Gustavus F. Jocknick fully exculpates him from the charges contained in the indictment against him.

ROBERT P. DICK,
United States District Judge.

MAY 15, 1873.

UNITED STATES OF AMERICA,
Western District of North Carolina:

I, E. R. Hampton, clerk of the United States circuit court for the western district of North Carolina, hereby certify that the foregoing is a true and correct copy of the order made by his honor, Judge Dick, who was at that time the presiding judge of the said circuit court, in the case of Gustavus F. Jocknick, and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at office in Asheville, on this 16th day of May, A. D. 1873, and the 97th year of the American Independence.

{ SEAL OF THE COURT. } E. R. HAMPTON,
Clerk United States Circuit Court, Western District North Carolina.

The Honorable Robert P. Dick, holding the circuit court at Asheville, also certified in regard to the attendance of witnesses as follows:

In the circuit court af the United States in and for the western district of North Carolina.

UNITED STATES
vs.
S. H. SWETLAND, G. F. JOCKNICK, ET AL.

I, Robert P. Dick, judge of the district and circuit courts of the United States in and for the western district of North Carolina, hereby certify that it appeared to me in evidence in open court that Maj. C. A. Earnest, United States Army, Alexander Johnston, and Henry R. Clum were produced as witnesses before this court at the May term, 1873, thereof, at Asheville, on behalf of the defendant, Gustavus F. Jocknick; that subpœnas, under seal of this court, were issued to procure the attendance of said witnesses, under which they were produced; that said first-named witness came from Omaha, Nebr., and said other witnesses came from Washington, D. C., that an affidavit of said defendant has been filed in this court declaring his inability to pay the expense of such attendance of such witnesses, but that the same was not filed until after the issuing of said subpœnas, and that consequently an order of this court directing their payment by the United States marshal can not be made; but, in my judgment, such expenses ought to be paid and reimbursed to the defendant by the Government, and especially under the circumstances of his complete exculpation from the charges brought against him, after hearing by the court, and on motion of the district attorney on behalf of the United States.

It also appeared in open court that said witnesses were very material for the defense.

Dated the 15th day of May, 1873.

ROBERT P. DICK,
United States District Judge.

After his return to Washington, Mr. Jocknick made application to be reimbursed the expenses incurred by him in defending this prosecution, and the Commissioner of Indian Affairs and Board of Indian Commissioners recommended payment; but the Comptroller of the Treasury decided that there was no appropriation out of which it could be paid and that its payment was not authorized by existing laws.

The expenses incurred by Mr. Jocknick in this case, according to vouchers placed in the hands of your committee, amount to the sum of $1,717.44.

Your committee regard this as a peculiar case of hardship on Mr. Jocknick and recommend the passage of an act for his relief.

It may be proper to say that, after his arrest, he was suspended from his clerkship in the Department of the Interior, but after his exculpation he was reinstated and has the full confidence of the Department.

The committee therefore recommend the passage of the accompanying bill.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 613.

JOHN L. PETERS.

MARCH 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 6979.]

The Committee on War Claims, to whom was referred the bill (H. R. 6979) for the relief of John L. Peters, submit the following report:

The Committee on Claims of the Forty-eighth Congress, to whom was referred the above-mentioned claim, not being fully and clearly advised by all the facts in said claim, referred the same to the Court of Claims for a finding of facts, under the provisions of the act of March 3, 1883, commonly known as the "Bowman act."

The claim has been returned to this committee by the court, with the following findings of fact, to wit:

FINDINGS OF FACT.

I.

In August, 1861, Maj. Gen. Fremont, commanding the Department of the West, issued at the times of their respective dates the following orders:

HEADQUARTERS WESTERN DEPARTMENT,
St. Louis, August 20, 1861.

SIR: You are hereby appointed to the position of music director in this department, with the rank and pay of captain, and you are instructed forthwith to commence the organization of ten bands, to be under your general superintendence, with a leader to each, holding the rank and receiving the pay of lieutenant.

The musicians in each band will be divided into two classes, those of the first class receiving $34 per month, besides soldiers' rations and clothing, and those of the second class receiving $28 per month, besides rations and clothing.

It is intended that the amounts so to be paid, over and above the sums allowed by the Army Regulations of the United States, shall be paid from the funds of the regiment to which said band is attached.

As fast as these bands are severally organized and ready for service you will report to these headquarters.

J. C. FREMONT,
Major-General Commanding.

Capt. WALDAUER.

[General Order No. 5.]

HEADQUARTERS WESTERN DEPARTMENT,
August 29, 1861.

By special order of the 20th day of August, 1861, Capt. Aug. Waldauer was appointed musical director and was intrusted with the organization of bands for the Western Department and with the general control and superintendence of the same.

Colonels of regiments and their commanding officers will communicate or confer

with Capt. Waldauer in all cases where organization or completion of a band may be desired. Requisitions for musical instruments had better be made through Capt. Waldauer.

J. C. FREMONT,
Major-General Commanding.

HEADQUARTERS OF WESTERN DEPARTMENT,
St. Louis, August 30, 1861.

Capt. WALDAUER:

You will order instruments for ten bands, to be delivered to the different bands of the regiments when the adjutant of the regiment and in its name assumes the responsibility of refunding the amount to the Government, to be paid out of the post funds.

J. C. FREMONT,
Major-General Commanding.

II.

Under and pursuant to the foregoing orders the music director purchased of the firm of J. L. Peters & Co., dealers in musical instruments, in St. Louis, instruments for the bands of several regiments, more fully set forth in the schedule annexed to these findings, at prices aggregating $3,115.50.

III.

The vouchers for these instruments were duly presented to the Quartermaster-General for payment, and to the Davis-Holt-Campbell commission (see Child *et. al. vs.* The United States, 4 C. Cls. R., 176; 12 Wall. R., 232), but payment was refused by both upon the ground that the claim was a claim against the regiments to which the instruments went, and not against the United States.

IV.

The following is the schedule mentioned in Finding II:

3 Eb sopranos Ger. sil	$175.00	
4 Eb contralto	160.00	
3 Eb alto	200.00	
3 Eb baritone	180.00	
4 Eb basso	280.00	
3 Eb tubas	255.00	
2 extra drum tenors	25.00	
1 pr. Turkish cymbals	25.00	
1 bass drum	18.00	
1 lot of music	8.00	
1 extra drum tenor	15.00	
Total	1,341.00	
Less cash paid on acct	171.00	
		$1,170.00
(Furnished to 6 Iowa Reg't, Sept. 18, 1861.)		
3 Eb sopranos, Ger. sil	105.00	
2 Eb contralto	80.00	
2 Eb alto	100.00	
2 Eb tenors	120.00	
1 Eb baritone	70.00	
1 Eb bass	70.00	
1 Eb tuba	85.00	
1 pr. cymbals	25.00	
1 bass drum	10.00	
		665.00
(Furnished to 6 Reg. Mo. Vol., Sept. 22, 1861.)		
2 Eb sopranos, Ger. sil	70.00	
2 Eb contralto	120.00	
1 Eb alto	50.00	
2 Eb tenors	120.00	
1 Eb bass	70.00	
1 Eb tuba	85.00	
		515.00

(Furnished to Douglas Brigade, Sept. 27, 1861.)

3 Eb sopranos, brass	$60.00	
2 Eb contralto	44.00	
3 Eb alto	81.00	
2 Eb baritone	62.00	
1 Eb bass	36.00	
2 Eb tubas	80.00	
bass drum	19.00	
		$382.00

(Furnished to Douglas Brigade, Sept. 27, 1861.)

3 Eb sopranos, rotary or sh	$60.00	
2 Eb contralto	44.00	
2 Eb contralto	54.00	
1 Eb bass, rotary or sh	36.00	
2 Eb tubas	80.00	
2 Eb baritones	62.00	
1 bass drum	10.00	
1 pr. cymbals	18.00	
1 bass drum	17.00	
Boxing and drayage	2.50	
		383.50

(Furnished to 21 Reg. Ills. Vol., Sept. 20, 1861.)

Total furnished 3,115.50

BY THE COURT.

Filed February 24, 1891.
A true copy.
Test, this 13th day of February, A. D. 1892.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

Your committee recommend that said findings of the Court of Claims be carried out by the passage of the bill, which is in harmony with the conclusions reached by the court.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 614.

SECTIONS 3480 AND 4716 REVISED STATUTES.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. OATES, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 4548.]

The Committee on the Judiciary having had under consideration H. R. 4548, find that the bill is intended to suspend the operation of sections 3480 and 4716 of the Revised Statutes of the United States in two classes of cases only.

Soon after the war between the States—usually called the war of the Rebellion—began, the names of all persons resident in the seceding States who were receiving pensions, were dropped from the pension roll, on account of their supposed disloyalty, as they were citizens and residents of territory over which the so-called rebellion extended. These former pensioners are now very few in number, and are from 70 to 90 years of age. Such of them as could make the quantum of proof required as to their loyalty have been restored to the pension roll, with back pay. Very few could make such proof, because one of these sections requires that the proof must establish open acts and affirmative declarations of loyalty during the war. They require proof of acts which, had they been performed, nearly anywhere within the limits of the then Confederate government, would have almost certainly insured the imprisonment of anyone who thus manifested his loyalty. Some of these were Union men at heart, who were prudent enough to be quiet, and to say nothing. These are as unable to make the proof required by these sections as those who were disloyal; while others, classed as disloyal, were mere sympathizers with the Confederacy, or aided and assisted their sons or kindred who were in the army.

The bill proposes to relieve these of proof of affimative acts of loyalty and to allow them, in their old age and decreptitude, to be restored to the pension rolls, but gives them no back pay.

The other class which this bill is intended to relieve from proof of loyalty consists of the soldiers of the Mexican war and Indian wars in respect to obtaining bounty land, which was granted to them by acts of Congress in 1850 and in 1855, long before the war commenced. There were but few of these who failed to obtain their land warrants before the war commenced, but there were some in every Southern State. These grants were *in præsenti;* they vested rights which, though floats, when located on any of the public lands subject thereto, gave them precision and would have completed the title in the grantees. These rights were not confiscated by acts of rebellion, nor could Congress pass a law which would *proprio vigore* have that effect. It would have required a proceeding in court, and the sale of the land itself;

and even then the title of the purchaser would continue only during the life of the rebellious owner. See the case of the heirs of Robert E. Lee *vs.* The United States, as to the Arlington estate.

These grants of bounty land were made in consideration of services rendered as soldiers by the grantees to the United States. At that time they were capable of taking—under no disability—and for subsequent acts it is not right to deprive them of the benefit of these grants.

The Supreme Court of the United States decided in Padelford's case (in 9 Wallace), and in Klein's case, and in Pargoud's case (both in 13 Wallace), that the proclamation of amnesty and pardon issued by the President of the United States on the 25th day of December, 1868, relieved all persons, with the exceptions named therein, from any disability incurred by acts of disloyalty or rebellion, and when Congress tried to reverse this decision by a provision attached to an appropriation bill, denying to all persons the right to plead this proclamation of amnesty, the Supreme Court held the enactment to be void, because the President had the Constitutional power to issue the proclamation, and that it completely wiped out the requirement of proof of loyalty, so that all citizens, whether they had been loyal or disloyal, were, by the proclamation, placed on the same footing before the courts of the United States. Notwithstanding these decisions of the highest judicial tribunal in the world, these sections are retained in the Revised Statutes, and are adhered to as rules of practice in the Departments, thereby denying rights to people on account of disloyalty or the inability to prove loyalty affirmatively twenty-seven years after the close of the war, and many years after these decisions have been promulgated, the correctness of which nobody can question.

For these, among other reasons, your Committee recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 615.

VELASCO TERMINAL RAILWAY COMPANY.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 2753.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 2753) authorizing the Velasco Terminal Railway Company to construct a bridge across the Brazos River, in Texas, respectfully report:

This bill authorizes the Velasco Terminal Railway Company, a corporation incorporated under the laws of Texas, to build a bridge across the Brazos River, in that State. It has the approval of the War Department, with the following amendment which is recommended by the committee, to wit: After the word "company," in line 14, insert these words, "and approved by the Secretary of War."

The committee respectfully recommend the passage of the bill.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 616.

LICENSE TO USE A PIER AT THE MOUTH OF THE CHICAGO RIVER.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 4330.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 4330) to repeal House resolution No. 104, first session, Fifty-first Congress, granting to Secretary of War a permit to license to use a pier at the mouth of the Chicago River, having had the same under consideration, submit the following report:

The growing needs of commerce have caused a revolution in the method of handling lake shipping and the transfer of freight upon the great lakes of this country. The transportation of lake freight at the present time being accomplished by steamships or tugs, with tows of from one to five barges.

The facility with which tows may be made up at this pier is very apparent, whereas if the pier was leased it would be necessary to secure tugs to tow the barges into the lake and make up the tow in unprotected waters and at great cost.

Remonstrances from vessel owners, the Board of Trade of Chicago, and persons, firms, and corporations doing a large business in shipping and receiving grain, lumber, and general merchandise, protesting against the leasing of this pier have been so effective that up to the present time the Secretary of War has not leased said pier.

The provision that the license shall be a revokable one was perhaps intended to be a restriction in the interest of the Government, but it is well known that it is almost impossible for the Government to regain possession of valuable property or eject the tenant without great cost and vexatious delays.

The necessity for the repeal of the resolution by the passage of bill H. R. 4330 consists in the fact that a future administration, not conversant with all the details, might execute said lease without notice to interested parties and thereby greatly interfere with shipping interests centering in the port of Chicago.

The committee recommend that the bill (H. R. 4330) do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 617.

CONTINENTAL BRIDGE COMPANY.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 2752.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 2752) authorizing the Continental Bridge Company to construct a bridge across the Rio Grande at or near Brownsville, Tex., respectfully report:

This bill authorizes the Continental Bridge Company, a corporation organized under the laws of the State of Texas, by and with the consent of the Mexican Government, to erect a bridge across the Rio Grande at or near Brownsville, Tex. It contains the usual provisions and safeguards and has the approval of the War Department.

The committee respectfully recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 618.

BRIDGE ACROSS THE OSAGE RIVER.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 5354.]

The Committee on Commerce, to whom was referred the bill (H. R. 5354) authorizing the construction of a bridge across the Osage River, between the town of Warsaw and the mouth of Turkey Creek, in Benton County, Mo., have had the same under consideration, and report it back with the recommendation that it do pass, with the amendments submitted.

A letter from the Secretary of War, with accompanying report from Chief of Engineers, is herewith submitted.

WAR DEPARTMENT,
Washington City, February 17, 1892.

SIR: I return herewith House bill 5354, Fifty-second Congress, first session, "to authorize the construction of a bridge across the Osage River, between the town of Warsaw and the mouth of Turkey Creek, in Benton County, Mo.," which was referred to this Department on February 4, 1892, and beg to invite your attention to the inclosed report of the Chief of Engineers, dated February 11, 1892, and to an amended copy of the bill submitted by that officer.

Very respectfully,

S. B. ELKINS,
Secretary of War.

The CHAIRMAN OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
House of Representatives.

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., February 11, 1892.

SIR: I have the honor to acknowledge the reference to this office of letter from the Committee on Interstate and Foreign Commerce of the House of Representatives, inclosing, for views of the War Department thereon, H. R. 5354, Fifty-second Congress, first session, "A bill to authorize the construction of a bridge across the Osage River between the town of Warsaw and the mouth of Turkey Creek, in Benton County, Mo.," and, in returning the same, I beg leave to recommend that the bill be amended as follows:

Section 8, line 3, change the words "three years" to *one year* and change the word "five" to *three*.

A copy of the bill with the proposed amendments indicated thereon is herewith submitted, and, as thus amended, I know of no objection to its passage by Congress so far as the interests of navigation are concerned.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

Hon. S. B. ELKINS,
Secretary of War.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 619.

PONTOON BRIDGE ACROSS THE MISSISSIPPI RIVER.

MARCH 10, 1892—Referred to the House Calendar and ordered to be printed.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 4476.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 4476) to authorize the construction of a pontoon bridge across the Mississippi River at or near Davenport, Iowa, having examined and considered the same, report the same back to the House with a recommendation that it do pass, with an amendment striking out the words "if, in the opinion of the Secretary of War, the same be a public necessity," in lines 7 and 8. This same matter was favorably reported in the Fifty-first Congress, and we adopt the report then made, as follows:

The Committee on Commerce, to whom was referred the bill (H. R. 7622) to authorize the construction of a pontoon bridge across the Mississippi River at or near Davenport, Iowa, having examined and considered the same, report back to the House with recommendation that the same be amended by striking out the name "Hirshl," in line 3, section 1, and inserting the name "Hirscht."

Also that the words "if, in the opinion of the Secretary of War, the same be a public necessity," in lines 7 and 8, be stricken out.

The bill contains the usual restrictions and provisions for the protection of the navigation and commerce of the Mississippi River, and this is so reported from the Chief Engineer of the Army, through the Secretary of War.

Maj. Alexander McKenzie, to whom the bill was referred by the War Department, suggests some doubt as to whether the bridge proposed can be built where it would be a public necessity and consistent with the interests of the general navigation of the river or without injury thereto. These appear to be questions, however, which can arise under the law, as the location of the proposed bridge and the plan are subject to the approval of the War Department, and may properly be determined upon examination and hearing, which can not well be had before your committee.

As amended, your committee recommend that the bill do pass.

The letters of the Chief Engineer of the Army and of the Secretary of War relating to the bill are herewith submitted and made part of this report.

WAR DEPARTMENT,
Washington, March 13, 1890.

SIR: I return herewith H. R. 7622, "to authorize the construction of a pontoon bridge across the Mississippi River at or near Davenport, Iowa," referred to this Department on the 6th instant, and invite your attention to the inclosed report of the Chief of Engineers of the 11th instant, which expresses the views of this Department upon the bill.

Very respectfully,

REDFIELD PROCTOR,
Secretary of War.

Hon. CHARLES S. BAKER,
Chairman Committee on Commerce, House of Representatives.

OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, D. C., March 11, 1890.

SIR: I have the honor to return herewith H. R. 7622, Fifty-first Congress, first session, "A bill to authorize the construction of a pontoon bridge across the Mississippi River at or near Davenport, Iowa."

This bill was referred to Maj. Alexander Mackenzie, Corps of Engineers, the officer in charge of improvement of this portion of the Mississippi River, who, in returning it to this office, says:

"The inclosed bill appears to contain all the customary provisions for protecting the interests of navigation. * * * If this bill becomes a law, and a consideration of plans, etc., comes up under it, I doubt whether it can be demonstrated that the proposed bridge is a 'public necessity,' or that such bridge can be built in any location suitable to the interests of the general public without material injury to the interests of navigation."

The views of Maj. Mackenzie are concurred in by me.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brigadier-General, Chief of Engineers.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 620.

BRIDGE ACROSS THE TENNESSEE RIVER.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 7092.]

The Committee on Interstate and Foreign Commerce, having had under consideration H. R. No. 2742, report back the annexed bill as a substitute therefor, and recommend that the substitute do pass.

O

APPROPRIATIONS FOR THE NAVY.

MARCH 10, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HERBERT, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany H. R. 7093.]

The Committee on Naval Affairs, to whom was referred so much of the President's message as relates to the support of the Naval Establishment, beg leave to report herewith H. R. 7093, entitled "A bill making appropriations for the naval service for the fiscal year ending June 30, 1893, and for other purposes," and ask of the House its favorable consideration.

The total amount carried by the bill, including appropriations for public works incident to the naval establishment and for increase of the Navy, is $23,666,823.71. The general features of the bill may be seen by a glance at the following tables, taken from the Book of Estimates, recapitulating in parallel columns the amounts appropriated under the several heads for the current year and the amounts estimated by the Department for the coming fiscal year. Opposite these we have set the amounts carried in the bill we propose:

	Estimates.—Total amount to be appropriated under each head of appropriation.	Law for 1892.—Amount appropriated for the fiscal year ending June 30, 1892.	Appropriations for 1893.—Amount reported by the committee for the fiscal year ending June 30, 1893.
Total for the support of Navy proper	$12,916,579.82	$12,414.714.96	$12,307,116.63
Total for public works, Bureau of Yards and Docks	769,659.38	829.137.95	838,900.00
Total for Naval Observatory	59,325.67	136,689.00	17,500.00
Total for Naval Academy	207,668.65	208.073.45	189.065.45
Total for Marine Corps	960,531.28	950,530.42	931.741.63
Total for increase of Navy	12,280,855.00	17,607,000.00	9,460,000.00
Grand total	27,194,639.80	32,146.145.78	23,736,823.71

In addition the above sum of $32,146,145.78, stated in the estimates of the Treasury Department to be the amount appropriated for the current fiscal year, the law of March 2, 1891, carried also certain items not in the estimates for the coming year, amounting all together to the sum of $395,500.

Adding this amount and we have as the amount appropriated for the current year, $32,541,645.78. The bill making appropriations for the support of the Naval Establishment for the current fiscal year as it was reported to the House December 20, 1890, carried $30,955,957.58. As it passed the House, $31,111,654.78. As it was reported to the *Senate February 6, 1891*, it carried $31,557,654.78, and it passed the

Senate as reported. It became a law March 2, 1891, carrying $31,541,654.78. But upon the next day, March 3, in the deficiency bill, as it passed, was an item, "Increase of the Navy toward the construction and completion of the new vessels heretofore authorized by Congress, with their engines, boilers, and machinery, being amount required to carry on work on said vessels, $1,000,000." As the Navy Department was not able during the remainder of the fiscal year 1891 to expend said money by reason of the slow progress made in the construction of ships and the production of armor the Treasury Department, in the table given above, has estimated this $1,000,000 as part of the appropriations for the fiscal year ending June 30, 1892, making the total appropriations for 1892 $32,541,654.78, which includes the sum of $395,500 hereinbefore mentioned for items not asked for.

The estimates for the coming year were, therefore, less than the appropriations for the present year, according to the figures of the Treasury Department, by $5,287,005.98. The appropriations carried in the bill reported by your committee are less than the estimates by $3,467,816.09, making the bill as proposed by your committee less than the appropriations for the current fiscal year by the sum total of $8,814,831.07.

We have been enabled to make this reduction without in any manner impairing the progress of our new Navy in great part because of the large surplus that will remain on hand unexpended and to the credit of "Increase of the Navy" at the end of the present fiscal year. This, however, is not the only direction in which we recommend a reduction of expenditures.

Your committee made careful examination, as far as was practicable, into the manner in which the moneys appropriated for the various purposes of the Navy have been and are being expended; and while they found nothing to condemn and very much to commend, they believe that the retrenchments under certain heads which they have recommended can be effected without any injury to the service, and that in view of the condition of the Treasury they ought to be made.

During the coming year very much less will be needed for the repairs of the hulls, boilers, and machinery of ships of the old Navy. Since July 1, 1890, nine of these old vessels have been stricken from the register, and still others will be retired between this and July, 1893. Your committee find that the Secretary of the Navy concurs with them in the belief that these obsolete ships with their obsolete guns are of little service and that they ought to give way rapidly for the new and better ships we are building. Nevertheless they have concluded that Congress ought by law to guard the Government even more stringently than heretofore against needless expenditures to keep these old vessels afloat.

For some years past there have been provisions in appropriation bills that no money should be expended on the hulls or on the boilers and machinery of wooden ships, unless such repairs could be made with less than 20 per cent of the original value of such hulls or of such boilers and machinery. Your committee recommend that this limitary amount be 10 per cent, and that it be further provided that no new boilers shall be made for any wooden vessel.

We have excepted from the operation of these limitations, however, the *Kearsarge* and the *Hartford*, believing that as the old *Constitution* has been kept alive as a receiving ship and otherwise for now nearly a century since she was built, so, in view of their historic services, the *Hartford* and Kearsarge should be kept as patriotic memorials of the past.

A considerable number of improvements at navy-yards and stations have been urged upon your committee by officials they examined which they declined to provide for. As upon a farm or any private property there are always betterments that can be made, so in any Government establishment improvements without limit can be suggested. Your committee have endeavored in deciding upon questions of this kind, when presented, to follow the rules which should guide a prudent business man in the management of his own property, and in no case have they refused to recommend any expenditure which seemed to them really to be a present necessity.

They have conceived it to be their duty, after informing themselves as fully as possible, to form an independent judgment for themselves; and so have not, of course, in all cases been guided by the wishes or expressed opinions of officials in charge. A navy-yard upon the Gulf of Mexico or waters connected therewith has always been deemed a necessity.

The repairs of government ships in all countries able to build and maintain navies are done in government shops. It is impracticable, if not impossible, to have such work done by contract—first, because of the difficulty of finding shops having the necessary plant; and secondly, and indeed, principally, because of the impossibility of estimating beforehand the value of, and contracting for, such work at fair prices.

It is expensive and tedious to bring ships belonging to the Gulf squadron to the navy-yards on the Atlantic coast for repairs. The navy-yard at Pensacola is not in condition to do such work; and the question has been for a long time open as to the point upon or contiguous to the Gulf of Mexico at which a yard should be fitted up for doing such work. Naval authorities have for many years past opposed the refitting of the Pensacola yard for the reason that it was so much exposed to the fire of a modern fleet.

Two commissions have been appointed, one after another, to visit points upon the Gulf and report the most advantageous site for a dock and shipyard. Both these commissions, one after another, recommended the Government reservation at Algiers, opposite the city of New Orleans.

Since the beginning of our new navy the Government has fitted up the navy-yards at Norfolk and Brooklyn with extensive plants, not only for the repairs but for the building of ships of war. A similar plant has been established on the Pacific coast at Mare Island; and if at any time it is contemplated to fit out a yard upon the Gulf of Mexico, it has seemed to your committee that the work ought to be begun now. They have therefore reported a provision authorizing the erection of a dock at Algiers, and have recommended an appropriation of $250,000 towards the construction of such dock and the purchase of additional land contiguous to this reservation.

There were also contained in the bill of last year appropriations for a number of works and improvements not estimated for. These as has been seen constitute a considerable amount.

The greatest reductions recommended are under the head of "increase of the Navy."

The appropriations for this purpose in each fiscal year from 1887 to and including the current year have been greater than the expenditures, for the reason that in no one of these years has the progress in shipbuilding or in the manufacture of armor or guns been as rapid as the authorities had reason to hope for and expect.

The authorization of ships has not been, in the opinion of your committee, unreasonable, and the results of our efforts to establish plants

for building ships, for armor plates, gun forgings, and the assembling of guns, have been, considering the results attained, extremely gratifying. Yet the fact remains that the difficulties, though they seem all at last to have been triumphantly surmounted, have been so great that work has not progressed as rapidly as appropriations have accumulated. The result is that there will be at the end of the current fiscal year a very large sum of money in the Treasury to the credit of "increase of the Navy," which can and ought to be taken into account in making appropriations for the coming year.

Your committee are unanimously of the opinion that every dollar should be appropriated necessary to complete the vessels heretofore authorized. To this end they have recommended, as they believe, all the moneys that will be called for during the coming fiscal year. They also believe that it should be the settled policy of Congress to authorize the construction of one or more new vessels at each regular session until we shall have provided a considerably larger number of fighting ships than we now have, or will have when those authorized are completed.

The recent Chilean embroglio, during which a naval war seemed for a time to be quite a probability, developed the fact our people at large quite approve of the policy in which we are engaged of rehabilitating the navy. By thoughtful people who appreciate our situation, and who understand the policies of the Government as settled many years ago, such a reminder was not needed.

It seems to your committee that every one who considers at all the welfare and honor of the whole country must recognize, as every President has done from George Washington down to the present day, the necessity of putting ourselves in condition to resist attacks coming from the sea.

Andrew Jackson, in his annual message December 2, 1834, said:

> The wide seas which separate us from other governments must of necessity be the theater on which an enemy will aim to assail us; and unless we are prepared to meet him on this element we can not be said to possess the power requisite to repel or prevent aggressions. We can not, therefore, watch with too much attention this arm of our defense or cherish with too much care the means by which it can possess the necessary efficiency and extension.

President Tyler said:

> It is due not only to the honor but to the security of the people of the United States that no nation should be permitted to invade our waters at pleasure and subject our towns and villages to conflagration or pillage. Economy in all branches of the public service is due from all the public agents of the people, but parsimony alone could suggest the withholding of the necessary means for the protection of our domestic firesides from invasion and our national honor from disgrace. I would most earnestly recommend to Congress to abstain from all appropriations for objects not absolutely necessary, but I take upon myself without a moment of hesitancy all the responsibility of recommending the increase and prompt equipment of that gallant Navy which has lighted up every sea with its victories and spread an imperishable glory over the country.

Mr. Cleveland in his message said:

> All must admit the importance of an effective navy to a nation like ours, having such an extended seacoast to protect. And yet we have not a single vessel of war that could keep the seas against a first-class vessel of any important power. Such a condition ought not longer to continue. The nation that can not resist aggression is constantly exposed to it. Its foreign policy is of necessity weak, and its negotiations are conducted with disadvantage, because it is not in condition to enforce the terms dictated by its sense of right and justice.

And it is well known that President Harrison is of the same opinion.

Whether we should have a Navy has never been and never should be made a question of party.

Shortly after the delivery of the message of President Cleveland from which we have quoted, and exactly six years ago to-day, the Committee on Naval Affairs of this House made a report, in which the condition of our Navy at that time and the question of rehabilitating it were elaborately considered.

From that report we beg leave to quote at length, because it not only discusses the situation of the country at that time but it recommended a policy which, at least, in its general outlines, has been followed during the six years that have elapsed. When that report was made, it will be remembered, we had, besides our old Navy, three modern cruisers, the *Chicago*, *Boston*, and *Atlanta*, and a dispatch boat, the *Dolphin*, well advanced towards completion. Two more unarmored cruisers and a gunboat had been authorized by the act of March 3, 1885, but these had not been laid down.

The report which was brought into the House on March 10, 1886, said:

The geographical situation of the United States and the relations we bear to other nations are peculiar. We have no rival on the Western continent, and we justly feel secure against any attack an enemy might make upon us by land. But we are without adequate means of defending our foreign or our coastwise commerce, and the cities scattered along our long line of sea coast are absolutely at the mercy of any second-rate naval power of the world.

Your committee have not thought it profitable to inquire into the causes which have resulted in placing the United States in this anomalous position among the nations of the earth. But a brief retrospect may be useful in enabling us to decide what should be our policy for the future.

Prior to the war of 1812 there were some serious differences of opinion among our statesmen as to whether the United States ought to attempt to become an important naval power, but from the moment when the news came of the brilliant victories of Hull and Lawrence at sea and Perry and McDonough on the lakes, the question was decided.

From that day the American Navy was an object of more or less pride and affection under every Administration. We built the best ships afloat and armed them with guns which were at least equal to any in the world. *We did not aspire to be*, because it was not necessary, but we demonstrated our capacity to become, *the equal, if not the superior, of any naval power in the world.* This was believed by the statesmen of that era to be the attitude the United States should assume before the world.

Your committee see no reason why we should entirely depart from that policy now. We believe this Government should at least create a navy which will be respectable in size, and that we should demonstrate our capacity to increase it rapidly to any required extent.

In 1846, in pursuit of the policy then agreed on by all, the United States founded the present Naval Academy. This institution is said to have owed its existence primarily to that eminent citizen, who now lives to witness the fruits of his wisdom, the Hon. George Bancroft.

The Naval Academy keeps abreast with the foremost in this era of development, and it has furnished us with a *personnel* for our Navy unequaled in training and culture by that of any other nation. The officers thus trained are drawn from all portions of the country, so that the Navy, in so far as officers are concerned, is a representative body.

But these officers would be practically useless in case of war now with any first or second rate naval power, because our ships now in commission are of an obsolete type, and they are armed with guns which are practically useless against the armored vessels of to-day.

In 1860 the era of wooden ships and stone forts was drawing to a close. Some efforts had been made in the direction of armored ships by several nations. A number of armored batteries had been designed, and Napoleon III, in 1858, had protected one of his vessels with about 3 inches of iron. But these were all untried.

The great battle between the *Merrimac* and the *Monitor* showed the power and

value of iron armor for the protection of battle ships, and the system of warfare at sea was revolutionized. The United States showed wonderful enterprise and ingenuity in building ironclad vessels during the four years of our civil strife; but since that war ceased, now twenty-one years ago, we have made no advance.

Our Navy now is not equal to what it was in 1860. But all other maritime nations, profiting by the lessons taught during our civil war, have vied with each other in improving their navies. Iron took the place of wood for vessels, and steel has now taken the place of iron for both vessels and guns. Ships of war have grown larger and heavier, guns have grown larger and heavier, and for twenty years the contest has gone on between the power of armor to resist and the power of guns to pierce. It now seems to be almost definitely settled that a modern projectile, thrown from the heaviest and best gun, will pierce at point-blank range the heaviest armor a seagoing vessel can carry. Yet though this is generally conceded, the guns which possess this power are so heavy, so expensive, and necessarily so few upon a vessel and the conditions of a combat at sea are so different from target practice, that the great naval powers of the world are continuing, and probably will continue, to build armor-clad vessels. Lieut. Jaques, one of the most accomplished officers of the United States Navy, in a pamphlet on this subject, published during the present year, says:

"To those who consider armor useless because the penetrating power of modern artillery is superior to the resistance of modern plates, I would call attention to the fact that circumstances attending target practice on the proving-grounds—the fire normal, guns on fixed platform, and the range only a few hundred feet—are very different from those in battle, where the range is great, the armor fitted to the fort or ship is constructed to present the least amount of normal surface. and the attacking gun and moving ship are ever changing their positions. According to Noble, one of the ablest English artillerists, a thickness of armor equal to one-half the diameter of the projectile will insure almost certain impenetrability in the ever-varying conditions of a battle at sea."

But as at present circumstanced it is of small moment to the United States whether the modern gun or modern armor is superior. We have neither the one nor the other—no gun mounted that can pierce an enemy's armor, no armor on a completed vessel or on a fort that can resist an enemy's guns.

Our heaviest granite wall is only 8 feet thick, while an 80-ton English gun has thrown a projectile through 25 feet of granite and cement. "No masonry can withstand such a fire. Even 75 feet of earth would probably not resist it, and if it would, troops could not, without other protection, work the cannon under the galling fire of modern machine guns."

Then, after carefully comparing our Navy at that time with our Navy of 1860, and also with the principal navies of the world, the report proceeds:

If we study carefully the characteristics of the navies summarized in this appendix, we find that we are not only at the mercy of European nations, but that our neighbor, Brazil, might exact tribute of any city along our Gulf or Atlantic coast, while Chile could enforce similar demands on the shores of the Pacific.

The *Riachuelo* and *Aquidaban*, those formidable Brazilian armored cruisers, could steam, at 13 to 14 knots an hour, from Brazil to New York in ten days. These vessels could, with impunity, pass our forts and anchor in New York Harbor; but, without doing this, their guns could easily throw shells into New York City from off Coney Island beach. The Chilean vessel *Esmeralda* carries coal enough to enable her to steam at 8 knots an hour from Chile to San Francisco without exhausting half her coal supply. With her high-power guns she could lie outside the Golden Gate and lay the city of San Francisco under contribution without going within the reach of its guns. The *Cochrane* and *Blanco Encalada*, other Chilean ships, are protected by 9 inches of iron armor, and carry batteries of six 8-inch breech-loading rifles.

It is the unanimous opinion of your committee that the Government of the United States ought not longer to permit the lives and property of American citizens to be thus manifestly held at the mercy of so many foreign nations. We have, therefore, earnestly inquired what steps ought to be taken to increase our means of defense. In the present condition of maritime warfare, considering all proposed means of attack and defense, it is a grave question to decide in what proportions between the erection of fortifications and additions to our naval establishment expenditures should be divided. It is not our province to discuss that question. We suppose all will admit the value of forts and guns ashore. The nations of the Old World have expended vast sums in the erection of iron

and steel clad forts, and they are continuing the work. Even for the uses of the Navy there must be harbors of refuge, and safe anchorage must be provided where not only naval vessels but those of the commercial marine may find shelter in time of war.

But when we remember that the United States have, including Alaska, more miles of seacoast than any nation in the world, and, excluding Alaska, far more than any other country except Russia, a brief consideration of the question shows clearly that forts of iron and steel can not, within any reasonable limit of cost, be erected so as to give protection wherever it is needed. This it is only practicable to do by means of a navy which can follow an enemy to every point of attack. Your committee, therefore, having first decided that the Government should take steps at once for the construction of a moderate number of modern vessels, with armaments of the most approved type, set themselves at work to decide what type of vessels should be recommended to the House.

Congress passed at that session, August 3, 1886, a bill authorizing the completion of five monitors then unfinished, two armored cruisers, one protected cruiser, and a dynamite cruiser or gunboat.

At each session since that date it has authorized the construction of one or more ships, so that the new Navy as now projected consists of the vessels shown upon the two following tables, covering those respectively armored and unarmored. The vessels that have been completed and commissioned since the making of the report quoted from are the *Chicago*, *Atlanta*, *Boston*, *Dolphin*, *Newark*, *Charleston*, *Yorktown*, *Petrel*, *Baltimore*, *Vesuvius*, *Cushing*, *Philadelphia*, *San Francisco*, *Concord*, *Bennington*, and *Minatonomoh*. Of these it will be observed by inspecting the tables below nine were authorized prior to March 4, 1885.

Our new Navy, as projected, embraces:

ARMORED VESSELS.

Name.	Type.	Condition.	Displacement.	Speed in knots per hour.	Batteries. Main.	Batteries. Secondary.	Armor. Sides.	Armor. Turrets.	Armor. Barbettes.	Date of act authorizing building or completion.
			Tons.				*In.*	*Inches.*	*Inches.*	
Puritan	Iron low free-board coast-defense monitor. Two steel barbette turrets.	In course of completion at U. S. navy-yard, Brooklyn, N. Y.	6,060	12.4	4 12" B. L. R. 6 4" R. F. guns.	2 6-pdr. R. F. 4 3-pdr. R. F. 4 37mm H. R. C. 4 Gatlings.	14	8	14	Mar. 3, 1885; Aug. 3, 1886; Mar. 3, 1887.
Miantonomoh	Iron low free-board coast-defense monitor. Two compound armor turrets.	Commissioned	3,990	10.5	4 10" B. L. R.	2 6-pdr. R. F 2 3-pdr. R. F. 2 37mm H. R. C. 2 Gatlings.	7	11½	.....	Do.
Amphitrite	Iron low free-board coast-defense monitor. Two steel barbette turrets.	In course of completion at U.S. navy-yard, Norfolk, Va.	3,990	12	4 10" B. L. R. 2 4" R. F. guns.	2 6-pdr. R. F 2 3-pdr. R. F. 2 37mm H. R. C. 2 Gatlings.	9	7½	11½	Do.
Monadnock	do	Completed	3,990	14.5	4 10" B. L. R. 2 4" R.F. guns.	2 6-pdr. R. F 2 3-pdr. R. F. 2 37mm H. R. C. 2 Gatlings.	9	7½	11½	Do.
Terror	Iron low free-board coast-defense monitor. Two steel turrets.	In course of completion at U. S. navy-yard, Brooklyn, N. Y.	3,990	12	4 10" B. L. R.	2 6-pdr. R. F 2 3-pdr. R. F. 2 37mm H. R. C. 2 Gatlings.	7	11½	.....	Do.
Texas	Steel armored battle ship. Two steel turrets.	Building	6,300	17	2 12" B. L. R. 6 6" B. L. R.	12 6-pdr. R. F. 4 1-pdr. R. F. 4 37mm H. R. C. 2 Gatlings.	12	12	.....	Aug. 3, 1886
Maine	Steel armored cruiser. Two steel barbette turrets.	do	6,648	17	4 10" B. L. R. 6 6" B. L. R.	12 6-pdr. R. F. 6 1-pdr. R. F. 4 Gatlings.	12	8	12	Mar. 3, 1887
Monterey	Steel low free-board coast defense. Two steel barbette turrets.	do	4,138	16	2 12" B. L. R. 2 10" B. L. R.	6 6-pdr. R. F. 4 1-pdr. R. F. 2 Gatlings.	13	For'd 8". Aft 7½".	For'd 14" Aft 11½".	Mar. 3, 1887
New York	Steel armored cruiser. Two steel barbette turrets.	do	8,150	20	6 8" B. L. R 12 4" R. F. guns.	8 6-pdr. R. F. 4 1-pdr. R. F. 4 Gatlings.	4	7	7	Sept. 7, 1888
No. 1	Steel harbor-defense ram	do	2,183	17	.....	4 6-pdr. R. F.	6	.....	.....	Mar. 2, 1889
Massachusetts	Steel coast-line battle ship. Two 13" barbette turrets. Four 8" barbette turrets.	do	10,200	15	4 13" B. L. R. 8 8" B. L. R. 4 6" B. L. R.	20 6-pdr. R. F. 4 6-pdr. R. F. 4 Gatlings.	18	17. 8½. 6.	17. 10. 8.	June 30, 1890

Indiana	do	do	10,200	15	4 13" B. L. R. 8 8" B. L. R. 4 6" B. L. R.	20 6-pdr. R. F. 4 1-pdr. R. F. 4 Gatlings.	18	do	do	Do.
Oregon	do	do	10,200	15	4 13" B. L. R. 8 8" B. L. R. 4 6" B. L. R.	20 6-pdr. R. F. 4 1-pdr. R. F. 4 Gatlings.	18	do	do	Do.

UNARMORED STEEL VESSELS.

Name.	Type.	Condition.	Displacement.	Speed in knots per hour.	Batteries.		Date of act authorizing the building.
					Main.	Secondary.	
			Tons.				
Chicago	Protected cruiser	Completed	4,500	15.33	4 8" B. L. R 8 6" B. L. R. 2 5" B. L. R.	2 6-pdr. R. F. 2 1-pdr. R. F. 4 47mm H. R. C. 2 37mm H. R. C. 2 Gatlings.	Mar. 3, 1883
Boston	do	do	3,198	15.60	6 6" B. L. R 2 8" B. L. R.	2 6-pdr. R. F. 2 3-pdr. R. F. 2 1-pdr. R. F. 2 47mm H. R. C. 2 37mm H. R. C. 2 Gatlings.	Do.
Atlanta	do	do	3,189	15.60	6 6" B. L. R 2 8" B. L. R.	2 6-pdr. R. F 2 3-pdr. R. F. 2 1-pdr. R. F. 2 47mm H. R. C. 2 37mm H. R. C. 2 Gatlings.	Do.
Dolphin	Dispatch boat	do	1,485	15.50	2 4" R. F. guns	2 6-pdr. R. F. 4 47mm H. R. C. 2 Gatlings.	Do.
Newark	Protected cruiser	do	4,083	19.00	12 6" B. L. R	4 6-pdr. R. F 4 3-pdr. R. F. 2 1-pdr. R. F. 3 37mm H. R. C. 4 Gatlings.	Mar. 3, 1885
Charleston	do	do	4,040	18.20	2 8" B. L. R 6 6" B. L. R.	4 6-pdr. R. F. 2 3-pdr. R. F. 2 1-pdr. R. F. 4 37mm H. R. C. 2 Gatlings.	Do.

UNARMORED STEEL VESSELS—Continued.

Name.	Type.	Condition.	Displacement.	Speed in knots per hour.	Batteries.		Date of act authorizing the building.
					Main.	Secondary.	
			Tons.				
Baltimore	Protected cruiser	Completed	4,600	19.575	4 8" B. L. R 6 6" B. L. R.	4 6-pdr. R. F 2 2-pdr. R. F. 2 1-pdr. R. F. 4 37mm H. R. C. 2 Gatlings.	Aug. 3, 1886
San Francisco	do	do	4,083	20.17	12 6" B. L. R	4 6-pdr. R. F 4 3-pdr. R. F. 2 1-pdr. R. F. 3 37mm H. R. C. 4 Gatlings.	Mar. 3, 1887
Philadelphia	do	do	4,324	19.678	12 6" B. L. R	4 6-pdr. R. F 4 3-pdr. R. F. 2 1-pdr. R. F. 3 37mm H. R. C. 4 Gatlings.	Do.
Cruiser No. 6	do	Building	5,500	20.00	10 5" R. F. guns 4 8" B. L. R.	14 6-pdr. R. F 6 1-pdr. R. F. 4 Gatlings.	Sept. 7, 1888
Cincinnati	do	do	3,183	19.00	10 5" R. F. guns 1 6" R. F. guns.	8 6-pdr. R. F 4 1-pdr. R. F. 2 Gatlings.	Do.
Raleigh	do	do	3,183	19.00	10 5" R. F. guns 1 6" R. F. guns.	8 6-pdr. R. F 4 1-pdr. R. F. 2 Gatlings.	Do.
Detroit	Cruiser	do	2,000	17.00	8 5" R. F. guns 2 6" R. F. guns.	6 6-pdr. R. F 2 1-pdr. R. F. 2 Gatlings.	Do.
Montgomery	do	do	2,000	17.00	8 5" R. F. guns 2 6" R. F. guns.	6 6-pdr. R. F 2 1-pdr. R. F. 2 Gatlings.	Do.
Cruiser No. 11	do	do	2,000	17.00	8 5" R. F. guns 2 6" R. F. guns.	6 6-pdr. R. F 2 1-pdr. R. F. 2 Gatlings.	Do.
Cruiser No. 12	Protected cruiser	do	7,350	21	1 8" B. L. R 2 6" R. F. guns. 8 4" R. F. guns.	12 6-pdr. R. F 4 1-pdr. R. F. 4 Gatlings.	June 30, 1890

Cruiser No. 13	do	do	7,350	21	1 8" B. L. R 2 6" R. F. guns. 8 4" R. F. guns.	12 6-pdr. R. F. 4 1-pdr. R. F. 4 Gatlings.	Mar. 2, 1891
GUNBOATS.							
Yorktown	Gunboat	Completed	1,700	16.65	6 6" B. L. R	2 6-pdr. R. F. 2 3-pdr. R. F. 1 1-pdr. R. F. 2 37mm H. R. C. 2 Gatlings.	Mar. 3, 1885
Concord	do	do	1,700	16.8	6 6" B. L. R	2 6-pdr. R. F. 2 3-pdr. R. F. 1 1-pdr. R. F. 2 37mm H. R. C. 2 Gatlings.	Mar. 3, 1887
Bennington	do	do	1,700	17.5	6 6" B. L. R	2 6-pdr. R. F. 2 3-pdr. R. F. 1 1-pdr. R. F. 2 37mm H. R. C. 2 Gatlings.	Do.
Petrel	do	do	890	11.55	4 6" B. L. R	2 3-pdr. R. F. 1 1-pdr. R. F. 2 37mm H. R. C. 2 Gatlings.	Mar. 3, 1885
No. 5	do	Building	1,050	14	8 4" R. F. guns	4 6-pdr. R. F. 2 1-pdr. R. F. 2 Gatlings.	Mar. 2, 1889
No. 6	do	do	1,050	14	8 4" R. F. guns	4 6-pdr. R. F. 2 1-pdr. R. F. 2 Gatlings.	Do.
SPECIAL CLASS.							
Practice cruiser	For naval cadets	Building	38	13	4 4" R. F. guns	3 6-pdr. R. F. 2 3-pdr. R. F. 1 1-pdr. R. F. 1 37mm H. R. C. 1 Gatling.	Sept. 7, 1888
Vesuvius	Dynamite cruiser	Completed	930	21.5	3 dynamite guns, 15" cal.	3 3-pdr. R. F	Aug. 3, 1886
Dynamite cruiser No. 2.		Subject to orders from the Department					
Torpedo cruiser		do					
TORPEDO BOATS.							
Stiletto	Wood torpedo boat	Completed	31	18.22	None	None	
Cushing	Steel torpedo boat	do	116	2.5	3 torpedo tubes	3 1-pdr. R. F	Mar. 3, 1887
Torpedo boat No. 2	do	Building	120	22.4	3 18" Whitehead torpedo tubes.	4 1-pdr. R. F	June 30, 1890

Since we entered upon this programme of constructing a modern navy our progress has not been as rapid as we had expected, yet we may well congratulate ourselves upon the results we have achieved. There were many difficulties to be encountered. In 1886 there was no shop in America that could make the steel shafting necessary for a large cruiser; none that had ever made steel forgings larger than for an 8-inch gun, and not one that could make an armor plate. All these industries had to be domesticated.

In the law of August 3, 1886, Congress enacted that all the ships and guns provided for should be of American material. The first task before the Secretary of the Navy, Mr. Whitney, was to decide upon the kind of armor we should manufacture; whether the compound plate, used principally by the English, or the all-steel plate as made by the French.

After taking time for careful investigation he wisely decided, as subsequent tests have satisfactorily proven, in favor of the all-steel plate, and made a contract with the Bethlehem Iron Company, June 1, 1887, for 6,703 tons of steel armor, equal to the best that could be manufactured. This contract included the armor for the *Puritan*, *Terror*, *Amphitrite*, *Monadnoc*, *Maine*, and *Texas*, the armored vessels authorized by the act of August 3, 1886. Delivery was to begin by February 1, 1890, and to continue thereafter at the rate of 300 tons per month.

The difficulties to be surmounted by this company seem to have been much greater than were expected. They have only just now fairly begun the delivery of armor plates, and are not yet able to furnish the required amount monthly. But the plant they have established is said to be unequaled in the world, and we may confidently expect better results in the near future. The present Secretary of the Navy, Mr. Tracey, in his last report, says:

> The more this subject is studied the more remarkable appears the foresight of judgment with which the first contract of 1887 was effected.

Your committee are gratified to be able to state that the present Secretary of the Navy, Mr. Tracey, "in view of the delays incident to the work under the Bethlehem contract, * * * in the summer of 1890 endeavored to secure a second source of supply, and on November 20 of that year entered into a contract with Messrs. Carnegie, Phipps & Co. for 5,900 tons of armor plates at the same price as that stipulated in the Bethlehem contract." The time fixed for deliveries to begin was July 1, 1891.

This time proved to be insufficient. Carnegie, Phipps & Co., though they are furnishing armor, are not yet able to deliver at the rate required by their contract. Had the armor been furnished by the Bethlehem Company according to agreement, we should have had, perhaps, two monitors besides the *Miantonomah* ready for use against Chile in case of war. As it is, except the *Miantonomah*, the armor for which had already been purchased abroad, not one of the armored vessels provided for in the act of August 3, 1886, or since, has been completed.

There has not altogether been delivered to the Government as much as half the armor needed by one of them. The vessels for which armor is to be furnished are twelve in number. They will require over 15,000 tons. If both contractors shall deliver hereafter at the monthly rates provided for in these contracts, the armor required to complete these vessels will not be furnished until the spring of 1894.

For these reasons the majority of your committee have decided that it would not be best now to authorize the construction of another battle

ship. Some of the projected vessels have been awaiting their armor for years. There is no reasonable expectation that the armor for all the twelve ships can be furnished before we enter upon the calendar year 1894. Your committee do not believe, however, that our new navy has yet reached the point at which further increase should cease.

It may be taken for granted that we do not need to build a great and expensive navy, like those of Great Britain and France, but certainly the time has come when it would be well to form some distinct and definite idea of the position we are hereafter to occupy among the naval powers of the world.

To regain the relative position among these navies we occupied prior to our civil war is certainly not too much to attempt, especially as we know now that we have no such efficient coast defenses as we then believed ourselves to possess.

To reach this point it is not disputed that we need more first-class battle ships. We have now only three authorized. Eight or nine more of these, in addition to our authorized fleet, would give us a respectable navy, sufficient, perhaps, for our purposes.

But if a battle ship were authorized now we could not reasonably expect that the heavy armor it would require could be furnished when needed. Certainly, if reasonable progress were made in its construction, either the new ship or some of those already authorized would be obliged to wait for armor, as several of them are doing now. Some of them have been ready, or in condition to be speedily made ready, for armor for years.

Next in importance to these are strong and swift commerce-destroyers, such as the *New York*, which is armored with 6 inches of steel, sufficient to protect its crew against the destructive missiles of rapid-fire guns. This ship is believed to be the best "all-round" ship in the world, combined speed, endurance, and fighting capacity considered. Nothing can be a more effective argument for continued peace than such a vessel as this, especially when considered by a nation having a large commerce afloat. We have only one such vessel as the *New York*, and it is believed we need another. With two such ships as this added to our two 21-knot and other unarmored swift cruisers it is believed by your committee, if they may venture an opinion for consideration by the House, that our programme of commerce-destroyers ought to be sufficient, at least, for a number of years to come; afterward we may continue the construction of battle ships.

The armor of a vessel like the *New York* can be manufactured much more easily and with much less delay than can the heavy armor for a battle ship.

In 1860 the Navy of the United States ranked sixth in the world, the fleets of Great Britain, France, Russia, Spain, Sweden and Norway preceding ours in the order named. In 1886 our Navy ranked about nineteenth, even those of Argentina, Chile, and Portugal being superior to it. (See Appendix D.) When our present programme of shipbuilding already authorized by law shall have been completed we will rank seventh. The addition of the vessels indicated above would place us in the fifth rank, leaving as superior to us, and in the order named, Great Britain, France, Italy, and Russia.

Considering that in 1860 our seacoast defenses were believed to be adequate to the demands of that day and that now they are worthless, an increase of our Navy to the extent indicated would scarcely leave us as able to repel attacks from the sea as we were in times gone by. *Since 1860 our importance* among the nations of the earth has vastly

increased. In population and in wealth we have far more than doubled. Our exports and imports in 1860 were $708,422,516. In 1891 they were $1,742,419,191.

When naval estimates are being considered, arguments are often made which would seem to indicate that the seacoast and seacoast cities only are interested in supporting a navy, when in point of fact four-fifths of our exports are products of the field, the forest, and the mine. The producers of these articles must have foreign markets, for they can not sell their surplus products at home. It is to the Navy they must look for the protection of this commerce. What do they pay now for this protection as compared with the price they paid in those days of low taxes to which we so often advert?

In 1860 the total expenditures for all purposes by the United States Government, excluding pensions and interest, were $81,353,155.78. The average annual expenditures for the Navy for the years 1858, 1859, and 1860 were $12,939,126, equivalent to 15 per cent of the total. Excluding pensions and interest upon the public debt, the expenses of the Navy for the past eight years, while we have been reconstructing it upon a modern basis, will not amount to more than 5 per cent of the total. Certainly this would seem to indicate that whatever extravagance may exist it is not chargeable to the Navy. A correct idea of the comparative cost of our Navy in the days preceding the civil war and now can be gathered from the following statement:

The average expenditures of the Navy for the eight years from 1853 to 1860, inclusive, were $11,487,430. The average appropriations for the expenses of the naval establishment for the eight years from 1886 to 1893, inclusive, will be, if the appropriation for 1893 shall be voted as carried in the bill of your committee, $22,886,565. Counting the population in 1860 at 30,000,000, the expense of our old-fashioned wooden navy, armed with old-fashioned cast-metal guns, was 38 cents per capita annually.

In this latter period of eight years, during which we have been building up a modern navy of steel ships, armed with the very best quality of modern wrought-steel guns, if we calculate the population in 1893 at 66,000,000, the expenditures for the Navy have been 34 cents per capita.

Appendix C, annexed to this report, contains a statement of the personnel of our Navy in 1860 and 1892. It is instructive to observe from this table that even in those days, when ships were so much smaller than now, and the country and its commerce so much smaller, we had nearly as many men and nearly as many officers as now, and that of officers having flag or command rank there were fully 20 per cent more than at present.

If we should conclude to continue building our modern navy until we shall have, say, ten or twelve battle ships and one more swift fighting cruiser like the *New York*, it would seem to your committee that such a work ought to extend through some years. Germany sometime ago adopted a programme of shipbuilding which was to continue for eight years, equal amounts being appropriated annually. Results have proven the wisdom of the scheme. We might well authorize all these battle ships in four years. German shipbuilders acquired skill with experience. The programme proceeded deliberately and carefully, and it is understood that the last ships are better than the first.

To construct modern naval vessels, with all their intricate and delicately adjusted machinery, requires infinite pains and the highest degree of skill. Designers and workmen can only acquire skill by experience, and if we would have our new ships to be the very best we can possibly construct, we should extend their construction over a series

of years. Thus we shall avoid mistakes and prevent the repetition, in different ships, of the same error. So, too, by keeping expenditures within moderate bounds each year, Congress will commend its programme to popular approval.

In our earlier efforts to rehabilitate the Navy attention was directed first to the construction of such smaller vessels as would certainly be necessary for the all-round purposes of the Navy. The five monitors of which we directed the completion (the *Terror*, the *Amphitrite*, the *Monadnock*, the *Puritan*, and the *Miantonomoh*) are all coast-defense vessels; able to take the sea, it is true, but not capable of fighting to advantage in a sea way.

The *Maine* and the *Texas* were the first sea-going armored vessels projected since we began the construction of the new Navy. These ships, while very useful, can neither of them properly be denominated as battle ships. They were not designed to meet the most formidable of modern vessels, but they were as large and as expensive as it was deemed prudent at the time to undertake.

Your committee believe that while coast-defense vessels of the *Monitor* type are of very great value for the defense of our ports, yet, considering the number of these ports and the great extent of our sea-coasts accessible to an enemy, who would, of course, in case of war, choose his point of attack, our true naval policy for the future is to construct hereafter principally, if not entirely, only first-class cruisers or first-class battle ships, with their accessories.

We should content ourselves with building such a navy and making such a display of our resources as will command peace.

The first great steps in that direction have already been taken. One who looks upon the great steel plant at Bethlehem, for the manufacture of armor and gun forgings, upon that manufacturing gun forgings at Midvale, and the works of Carnegie, Phipps & Co., now turning out armor plates, and then upon the unparalleled plant in the Washington navy-yard engaged in the successful assembling and finishing the very best modern guns will not only feel a just pride in the wonderful ingenuity and enterprise of the American people, but must also experience a sense of security hitherto impossible.

We are to-day, so far as our capacity to create a really great navy is concerned, if it should ever be necessary to take such a step, absolutely independent of the world.

The ships we are constructing are, type and class considered, equal to the very best in modern navies. Of the *Baltimore*, one of the first ships constructed under the act of 1886, Capt. W. S. Schley, her commander, makes the following report January 6, 1892:

After an experience extending over two years and a half on this vessel, during which time she has served in all climates and in all weathers, over an area of the globe embracing more than 100° of latitude and longitude, it is deemed proper that a report should be submitted to the Department setting forth that her behavior under all circumstances has been most satisfactory and that her adaptation to the service has been fully established. It is only just to her builders to state that the workmanship upon her has been found to be excellent and does them and through them the country much honor. Her stability as a gun platform at sea under all circumstances of weather is superior to that of any ship I have ever served in. Her speed, comfort, and performances under every condition of wind and weather are unexcelled, and, in her class, I question if her superior as a fighting machine exists in the navies of the world. In some respects her fittings might be improved in the new vessels now building, and in this view the remarks which follow are suggested with the hope that they may not be without their value to the Department. Her defects, where any exist, are merely details, and in this view I will treat them under their various headings, suggesting in all cases a remedy.

The few mistakes we have made are so insignificant that it may be safely stated that our success in shipbuilding is remarkable.

The armor being turned out at Bethlehem and Pittsburg, has recently been subjected at Indian Head to the severest possible tests. A prior test at the proving grounds near Annapolis of the relative excellence of the French all-steel and the English compound-armor plates fully proved the wisdom of Secretary Whitney's decision in favoring the French all-steel plate; and it must be said that the delay in the production of plates of this character under the original contract is after all not to be regretted.

Excellent as are these all-steel plates, made after the type of the Schneider plates at Le Creuzot, the delay that has occurred has enabled us even to improve upon them. Within the past two years the Department has developed and applied two new processes to the manufacture of this armor, each of which is a distinct and marked improvement. One consists of adding about 3 per cent of nickel, and the other in supercarbonizing armor plates by a process invented by a Mr. Harvey.

The Harveyized nickel plate, subjected to tests at Indian Head, open to the scrutiny of all the world, has proven to be the very best ever manufactured.

Our gun plant at the Washington navy-yard and the guns being assembled there have been said by a distinguished English expert, who was thoroughly familiar with all the great English, French, and German establishments, to be the most perfect in existence.

Secretary Whitney, with his usual foresight, discontinued at this navy-yard everything else except the manufacture of ordnance. Congress responded liberally to his requisitions for this establishment, and it has been furnished under him and his successor, Secretary Tracey, with the very best of modern tools and appliances. The result has been that the labor cost of manufacturing and finishing guns has been greatly reduced, as well as also the time required to manufacture them.

We may state as a sample of the progress that has been made that a 4-inch gun can now be rifled at the navy-yard within eighteen hours. Six years ago this same work required about sixty hours. By means of the improved machinery, as well as by the adoption of methods of selecting workmen, which deserve commendation, the labor cost of manufacturing 6-inch guns has been reduced as much as 20 per cent, and, indeed, quite a reduction made everywhere throughout this shop. The following table shows what progress has been made in the manufacture of modern guns for arming our Navy. About half the guns required have been completed, and work upon others is progressing satisfactorily.

Caliber.	Guns required to arm vessels provided for by law.	Sets of forgings ordered.	Sets of forgings delivered.	Guns completed.
4-inch	69	67	35	8
5-inch	56	56	29	3
6-inch	129	134	134	127
8-inch	51	51	21	21
10-inch	22	25	21	14
12-inch	8	8	4	3
13-inch	12	12	.....	.....
Total	347	353	244	176

Of the guns included in the above table twenty-three 6-inch and four 8-inch were made by private contract. None have been let out by contract since September, 1888, as it was found they could be made more cheaply and better in the Washington navy-yard, which, with its improved plant, will be able to arm the new vessels as fast as they will be completed. It is not too much to say that this ordnance shop at the Washington navy-yard is a triumphant success. Great credit is due those who have designed, constructed, and operated it, including not only Secretaries Whitney and Tracy, but Commodore Sicard, and especially Commodore Folger and his subordinates.

As to the method of constructing our new ships, the Naval Committee, in its report of March 10, 1886, heretofore quoted from, said:

Another question your committee have considered with great care was, whether the ships provided for in the bill should be built by contract or in the Government yards. There seems to be no serious question as to having all repairs done in Government workshops. The difficulty of defining and valuing the work to be performed renders the contract system so impracticable that all important naval powers have repairs and refits done in their own shops. Some, as England, even establish government workshops in their colonies.

The plant necessary for repairs and refits is almost, if not quite, sufficient for the construction of vessels; and navy-yards and docks are certainly in better condition to do such work when also engaged in construction. The bill reported, therefore, provides that one or more of the new vessels contemplated by the bill shall be constructed in one or more of the navy-yards of the United States. Power is also given to the Secretary to build or complete in Government workshops all the vessels included in the bill, in case it shall become apparent to him that contractors have made a combination against the Government. This provision will, it is believed, operate as a security for the Government, and will at the same time result in having most of our naval vessels procured by contract. The weight of evidence is that contract ships are cheaper; but there is some very strong testimony tending to show that Government-built ships are better.

In a table recently prepared by Maj. W. A. Jones, Engineer Corps, U. S. Army, it appears that the annual cost of repairs per ton of hull of British naval vessels built by contract is £1.2 per annum, and of vessels built in the Government dockyards the cost is £0.08; but the report of a special mixed committee appointed by the English Admiralty, in 1884, to inquire into the building and repair of ships, known as the Ravensworth committee, recites that the unanimous testimony of witnesses was that the quality of contract work in the construction of ships "as performed under Admiralty supervision" was "in no way inferior to that performed in the dockyards." Ships have heretofore been built in England, almost in equal numbers, by contract and in the Government dockyards. This committee also found that it was "expedient to extend the practice of building ships of war by contract."

One of the desirable results to follow from this policy, with us, will be the encouragement of private building of naval vessels, and the consequent multiplication of the means of rapidly increasing our naval strength in case of need.

These suggestions were made with the concurrence of Secretary Whitney and were approved by Congress. Three navy-yards were fitted up with tools to enable them to build ships, those at Brooklyn, Norfolk, and Mare Island. Unless Congress shall see proper to depart from the policy outlined as above in 1886, it will not be necessary to fit out other navy-yards with the expensive plant necessary for shipbuilding.

The needs of the service probably require that ordinary repairs shall be done also at other yards, but these three will be able to build all the ships we shall construct in Government yards unless Congress shall abandon the system it adopted six years ago. That system contemplated the construction of ships principally by contract, the power to build itself any ship that was authorized being reserved to the Government in each act, chiefly as a means of preventing combinations between contractors.

Not only was it believed that this policy would secure our ships at

cheaper rates and of as good quality when built by contractors as now always under Government supervision, but it was said that one of the desirable results to follow from this policy would be "the encouragement of private building of naval vessels and the consequent multiplication of the means of rapidly increasing our naval strength in time of need."

These anticipations have been fully realized. Competition among bidders for the construction of Government vessels has recently come from many shipyards which could not have undertaken such work in 1886. Not only have we contracts now with Wm. Cramp & Sons, of Philadelphia, N. F. Palmer & Co., at Chester, Pa., Harlan & Hollingsworth, at Wilmington, Del., but also with the Union Iron Works, at San Francisco, Cal., City Point Works, at Boston, Mass., Columbian Iron Works, at Baltimore, Bath Iron Works, at Bath, Me., Moore & Sons, of Elizabeth, N. J., and also with the Iowa Iron Works, which are building a torpedo boat for the Government at Dubuque, Iowa.

In conclusion, your committee beg leave to say that they have been thus full and explicit in their explanations of the progress that has been made in the construction of a new navy, because we have now reached a point in its development which is full of interest to the country, and they have quoted largely from the report made in 1886 in order that Congress may be able to see for itself what was then proposed and to judge of the manner in which its programme has been carried out. With the results thus placed before it, it is for Congress in its wisdom to decide upon the steps to be taken for the immediate future.

APPENDIX A.

Condition of the United States Navy in 1893, when vessels now building are completed.

Type.	Unfit for sea service.	Available.	Total.
Armored:			
Battle ships		4	4
Cruisers		2	2
Old monitors	13		13
Modified monitors		6	6
Harbor-defense ram		1	1
Total	13	13	26
Unarmored:			
Protected cruisers		10	10
Partially protected cruisers		12	12
Torpedo vessel		1	1
Despatch vessel		1	1
Dynamite cruiser		1	1
Practice cruiser		1	1
Total		26	26
Iron and wooden steam vessels of obsolete type and little value		9	9
Sailing vessels		5	5
Hulks	8		8
Tugs		14	14
Total	8	28	36
Summary	21	67	88

APPENDIX B.

Present condition of foreign navies.

GREAT BRITAIN.

Type.	Building.	Completing.	Unfit for sea service.	Available.	Total.
Armored:					
Barbette	8	1		7	16
Turret	1			16	17
Broadside				15	15
Armored cruisers	9			16	25
Coast-defense vessels				15	15
Total	18	1		69	88
Unarmored:					
Protected cruisers	18			29	47
Partially protected cruisers				44	44
Unprotected cruisers				42	42
Total	18			115	133
Torpedo vessels	16			17	33
Gun vessels				69	69
Dispatch vessels				11	11
Transports				18	18
Torpedo transports				2	2
Ram (protected)				1	1
Sailing vessels				25	25
Small special-service vessels, tugs, etc				63	63
Hulks, small training ships, coal depots, etc			147		147
Total	16		147	206	369
Summary:					
Armored				69	88
Unarmored:					
Cruisers				115	133
Torpedo vessels				17	33
Gun vessels				69	69
Special service				120	267
Total				390	580

FRANCE.

Armored:					
Barbette	2			15	17
Turret	4				4
Armored cruisers				11	11
Coast defense	6			20	26
Total	12			46	58
Unarmored:					
Protected cruisers	11			16	27
Unprotected cruisers				46	46
Gunvessels				85	85
Torpedo vessels	6			8	14
Transports	*1			37	38
Sailing vessels				24	24
Special-service vessels				58	58
Total	18			274	292
Summary	30			320	350

*Torpedo depot ship.

APPENDIX B—Continued.

Present condition of foreign navies—Continued.

ITALY.

Type.	Building.	Completing.	Unfit for sea service.	Available.	Total.
Armored:					
Barbette		3		5	8
Turret				3	3
Broadside			2	7	9
Total		3	2	15	20
Unarmored:					
Protected cruisers		7		6	13
Partially protected cruisers				4	4
Unprotected cruisers	1		5	10	16
Gun vessels			9	22	31
Torpedo vessels	6			10	16
Small vessels for special service				39	39
Transports				12	12
Total	7	7	14	103	131
Summary				118	151

RUSSIA.

Type.	Building.	Completing.	Unfit for sea service.	Available.	Total.
Armored:					
Barbette*	3	1		9	13
Turret*	2			2	4
Coast defense	2			25	27
Total	7	1		36	38
Unarmored:					
Protected cruisers				1	1
Partially protected cruisers				11	11
Unprotected cruisers				18	18
Torpedo vessels	4			3	7
Gun vessels				36	36
Transports †				37	37
Special-service vessels				48	48
Total	4			154	158
Summary	11	1		190	202

* Six of these are armored cruisers. † Many of these are armed.

GERMANY.

Type.	Building.	Completing.	Unfit for sea service.	Available.	Total.
Armored:					
Barbette	5			6	11
Turret	4			3	7
Broadside				5	5
Gun vessels				13	13
Total	9			27	36
Unarmored:					
Protected cruisers	1	1		2	4
Unprotected cruisers	4			19	23
Gun vessels				9	9
Torpedo vessels	4			12	16
Special-service vessels	*1			11	12
Total	10	1		53	64
Summary	19	1		80	100

* Imperial yacht.

APPENDIX B—Continued.

Present condition of foreign navies—Continued.

AUSTRIA.

Type.	Building.	Completing.	Unfit for sea service.	Available.	Total.
Armored:					
Battle ships				11	11
Armored cruiser	1				1
Total	1			11	12
Unarmored:					
Protected	1			5	6
Gun vessels (protected)	2			2	4
Partially protected cruisers				3	3
Unprotected cruisers and gunboats				16	16
Torpedo vessels	2			5	7
Special-service vessels				33	33
Total	5			64	69
Summary	6			75	81

SPAIN.

Armored:					
Battle ship				1	1
Armored cruisers	7				7
Coast defense vessels			3	2	5
Total	7		3	3	13
Unarmored:					
Protected cruisers				6	6
Unprotected cruisers				31	31
Gun vessels				52	52
Torpedo vessels	4			7	11
Special-service vessels, transports, tugs, etc.				18	18
Total	4			114	118
Summary	11		3	117	131

SWEDEN.

Armored:					
Coast-defense vessels	1			6	7
Gun vessels				10	10
Total	1			16	17
Unarmored:					
Unprotected cruisers				4	4
Gun vessels				17	17
Dispatch vessels				2	2
Special-service vessels				5	5
Sailing vessels				7	7
Total				35	35
Summary	1			51	52

APPENDIX B.—Continued.

Present condition of foreign navies—Continued.

TURKEY.

Type.	Building.	Completing.	Unfit for sea service.	Available.	Total.
Armored:					
Battle ships*				7	7
Armored cruisers*				7	7
Coast-defense vessels*				1	1
Total				15	15
Unarmored:					
Gun vessels (protected)				3	3
Unprotected cruisers				17	17
Gun and dispatch vessels				33	33
Torpedo vessels				1	3
Transports				10	10
Special-service vessels				20	20
Total				84	86
Summary	2			99	101

* These vessels are all in very bad condition and, therefore, should not be counted as powerful war ships.

NORWAY.

Armored:					
Coast-defense vessels				4	4
Unarmored:					
Protected cruiser				1	1
Unprotected cruisers	2			5	7
Gun vessels				30	30
Transports				2	2
Sailing vessels				4	4
Total	2			42	44
Summary	2			46	48

HOLLAND.

Armored:					
Battle ships	1			2	3
Coast-defense vessels	1			16	17
Gun vessels				5	5
Total	2			23	25
Unarmored:					
Partially protected cruisers				1	1
Unprotected cruisers				13	13
Gun vessels and special-service vessels*				100	100
Sailing vessels				16	16
Hulks				4	4
Total				134	134
Summary	2			157	159

* Many of these are small paddle steamers employed in India; they are of no account as war ships.

APPENDIX B.—Continued.

Present condition of foreign navies—Continued.

CHINA.

Type.	Building.	Completing.	Unfit for sea service.	Available.	Total.
Armored:					
Battle ships				2	2
Coast-defense vessels				4	4
Total				6	6
Unarmored:					
Protected cruisers and gun vessels	4			8	12
Partially protected cruisers and gun vessels				14	14
Unprotected cruisers				18	18
Gun vessels				31	31
Special-service vessels			26	24	50
Total	4		26	95	125
Summary	4		26	101	131

ARGENTINE REPUBLIC.

Armored:					
Battle ships				1	1
Coast-defense vessels	2			2	4
Total	2			3	5
Unarmored:					
Protected cruisers				2	2
Unprotected cruisers				3	3
Torpedo vessels				2	2
Special-service vessels			5	8	13
Gun vessels				13	13
Total			5	28	33
Summary	2		5	31	38

BRAZIL.

Armored:					
Battle ships				2	2
Coast-defense vessels	2			5	7
Gun vessels				4	4
Total	2			11	13
Unarmored:					
Protected cruisers	1			1	2
Unprotected cruisers				7	7
Gun vessels				23	23
Torpedo vessels	2				2
Transports				2	2
Special-service vessels			1	12	13
Total	3		1	45	49
Summary	5		1	56	62

APPENDIX B—Continued.

Present condition of foreign navies—Continued.

JAPAN.

Type.	Building.	Completing.	Unfit for sea service.	Available.	Total.
Armored:					
Armored cruisers				2	2
Coast-defense vessels				3	3
Total				5	5
Unarmored:					
Protected cruisers	1			5	6
Protected gun vessels				1	1
Torpedo vessel				1	1
Unprotected cruisers	1			10	11
Special-service vessels			6	9	15
Total	2		6	26	34
Summary	2		6	31	39

DENMARK.

Type.	Building.	Completing.	Unfit for sea service.	Available.	Total.
Armored:					
Battle ships				2	2
Coast-defense vessels				6	6
Total				8	8
Unarmored;					
Protected cruisers	2			3	5
Unprotected cruisers				6	6
Gun vessels				10	10
Transport				1	1
Special-service vessels				12	12
Total				32	34
Summary	2			40	42

CHILE.

Type.	Building.	Completing.	Unfit for sea service.	Available.	Total.
Armored:					
Battle ship				1	1
Armored cruiser		1			1
Gun vessel				1	1
Total		1		2	3
Unarmored:					
Protected cruisers	1			3	4
Unprotected cruisers			1	4	5
Torpedo vessels				2	2
Transports				2	2
Special-service vessels				5	5
Total	1		1	16	18
Summary	1	1	1	18	21

APPENDIX B—Continued.

Present condition of foreign navies—Continued.

GREECE.

Type.	Building.	Completing.	Unfit for sea service.	Available.	Total.
Armored:					
Battle ships				3	3
Armored cruisers				2	2
Total				5	5
Unarmored:					
Unprotected cruisers				2	2
Gun vessels				12	12
Special-service vessels				8	8
Total				22	22
Summary				27	27

PORTUGAL.

Armored:					
Battle-ship				1	1
Total				1	1
Unarmored:					
Unprotected cruisers				6	6
Gun vessels				18	18
Transports	6			4	10
Small steamers and tugs				10	10
Total	6			38	44
Summary	6			39	45

APPENDIX C.

Personnel U. S. Navy, 1860 and 1892.

[Active list, exclusive of Marine Corps.]

	1860.		1892.	
	No.	Total.	No.	Total.
Officers of the line:				
Rear-admirals			6	
Commodores			10	
Captains	80		45	
Commanders	114		85	
Total number having command or flag rank		194		146
Lieutenant-commanders			74	
Lieutenants	325		250	
Masters	34			
Lieutenants (junior grade)			76	
Ensigns			173	
Midshipmen (graduates)	50			
Total number in subordinate grades		409		573
Officers of the medical branch		148		164
Officers of the accountant branch		64		94
Officers of the engineer branch		174		192
Chaplains, professors, naval constructors, and civil engineers		34		70
Warrant officers		175		138
Mates				28
Midshipmen on probation		238		
Naval cadets				312
Total officers and cadets		1,436		1,717
Enlisted men		7,800		*8,250

*Number allowed by law; the actual number is 100 to 200 less, varying from month to month.

APPENDIX D.

Rank of the U. S. Navy.

Rank of the navies of the world when vessels for U. S. Navy now building are completed.	In 1886 the United States ranked thus.	In 1860 the United States ranked after the following nations and ahead of all the rest.	If 9 battle ships and 30 torpedo boats are added to U. S. Navy, eliminating the question of organization and personnel in which Germany is much superior, we will rank.
Great Britain.	Great Britain.	Great Britain.	Great Britain.
France.	France.	France.	France.
Italy.	Italy.	Russia.	Italy.
Russia.	Russia.	Spain.	Russia.
Germany.	Germany.	Sweden and Norway.	**United States.**
Spain.	Spain.	**United States.**	Germany, etc.
United States.	Austria.		
Austria.	China.		
China.	Japan.		
Japan.	Holland.		
Holland.	Sweden and Norway.		
Sweden and Norway.	Turkey.		
Turkey.	Denmark.		
Denmark.	Greece.		
Greece.	Brazil.		
Brazil.	Argentina.		
Argentina.	Chile.		
Chile.	Portugal.		
Portugal.	**United States.**		
Peru.	Peru.		
Mexico.	Mexico.		

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 622.

IMPROVEMENT OF HARBOR, PHILADELPHIA, PA.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. STONE, of Pennsylvania, from the Committee on Rivers and Harbors, submitted the following

REPORT.

[To accompany S. R. 23.]

The Committee on Rivers and Harbors, to whom was referred the Senate joint resolution No. 23, relative to the improvement of the harbor of Philadelphia, having had the same under consideration, respectfully report the same back with the recommendation that it do pass. In support of their recommendation your committee submit the subjoined letters from the Chief of Engineers and Maj. C. W. Raymond, Corps of Engineers, on said subject.

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., January 14, 1892.

SIR: I have the honor to acknowledge the reference to this office of letter from the Senate Committee on Commerce, inclosing for views of the War Department thereon S. R. 23, Fifty-second Congress, first session: "Joint resolution relative to the improvement of the harbor at Philadelphia, Pa.," and in returning the same I beg to recommend that the joint resolution be amended as follows:

Section 1, line 8, change the word "designated" to "approved."

Same section, strike out all after the word "material," in line 10, and substitute therefor the following: "to be deposited and spread on League Island, as provided for under the existing contract, shall be so deposited and spread before the completion of the work covered by the contract."

The existing contract will not be terminated by the proposed joint resolution, and I do not at present recommend that the work be readvertised. If the present contractors fail to execute the work in a reasonable time, the question of readvertising the work will be considered.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

Hon. S. B. ELKINS,
Secretary of War.

UNITED STATES ENGINEER OFFICE,
Philadelphia, Pa., January 13, 1892.

GENERAL: In compliance with instructions contained in Department indorsement dated January 12, 1892, I have the honor to return herewith a letter from the Senate Committee on Commerce, dated January 9, 1892 (Engr. Dept., 258), with an inclosed joint resolution (S. R. 23, Fifty-second Congress, first session), relative to the improvement of the harbor at Philadelphia, Pa., and to submit the following report thereon:

This work is now in progress under a contract made in accordance with the provisions of the river and harbor act of September 19, 1890, and the sundry civil act of March 3, 1891.

The river and harbor act of September 19, 1890, provides for the execution of the work in accordance with the plan of the Board of Engineers of 1888. This plan provides for the removal of Smith and Windmill islands and a part of Petty Island and the adjacent shoals, and the advance of the Camden and Philadelphia shores by filling in with the dredged material so as to compensate for the increased cross section. This is a tidal river, and the cross section can not be much increased without shoaling. The plan approved by Congress therefore requires the establishment of the new shore lines during the progress of the work.

The sundry civil act of March 3, 1891, provides that material removed under appropriations made up to the present time shall be deposited and spread on League Island. This island is about 5 miles below Windmill Island, and all material placed upon it has to be raised a vertical distance of about 10 feet at mean low water.

The objections to this provision are as follows:

(1) It prevents the use of any of the material now being removed for filling in on the shores of the river; yet this filling in is an essential part of the plan adopted by Congress. The removal of Smith Island, which would be of great immediate benefit, can not be undertaken until the Camden shore has been advanced.

(2) It has been found impossible to deposit the material on League Island as fast as it is excavated. The work of excavation is therefore greatly delayed.

(3) It is presumed to be the desire of Congress to have League Island filled in as rapidly as possible. This provision does not hasten the work at League Island, since it prevents the contractors from using their excavating plant to advantage.

The passage of this resolution is very desirable. Should it be adopted the contractors will be required to prosecute the work of filling in at League Island as vigorously as possible, and at the same time they will be permitted to deposit excavated material on the Camden shore, and elsewhere should the improvement require it. The removal of Smith Island can then be undertaken as soon as a sufficient fill has been made along the Camden shore.

The total amount of material to be removed during the improvement is about 18,000,000 cubic yards. The amount provided for in the contract to be placed on League Island is not less than 2,500,000 cubic yards, which may be increased to 8,000,000 cubic yards, if required, by future legislation.

Very respectfully, your obedient servant,

C. W. RAYMOND,
Major, Corps of Engineers.

Brig. Gen. THOMAS L. CASEY,
Chief of Engineers, U. S. A., Washington, D. C.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 623.

MILITARY POST AT HELENA, MONT.

MARCH 10, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. OUTHWAITE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 5108.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5108) to establish a military post at or near the city of Helena, in Lewis and Clarke County, in the State of Montana, have considered the same and report as follows:

The bill proposes to establish a military post at Helena, Mont., when there shall have been conveyed to the United States, of good and sufficient title, not less than 1,000 acres of land, without cost to the United States, situate at or near that city and on or near a railroad.

The bill proposes to appropriate $300,000 for the purpose of defraying the expense of locating the post and erecting all the necessary buildings thereat. The importance of establishing a military post at Helena, Mont., has been considered by the military authorities for sometime, and it was presented to the War Department prior to the convening of this Congress. It is regarded as more necessary at this time because the question of repairing Fort Custer is pressed upon the attention of the Department by the sad condition of the buildings at that post. If the post at Helena is established the one at Fort Custer can be abandoned, much to the benefit of the service and the saving of expenditures made necessary by the remoteness of Custer from railroads and the nature of wagon roads to that point.

The establishment of the post at Helena is in direct accord with a system of concentrating large forces at points of railroad intersections, and a line of such posts across the country at suitable distances from our northern frontier. As the letters of the Secretary of War and Gens. Miles and Merritt set forth the facts in favor of the establishment of this post, they are made a part of this report and attached.

It may be well to say that upon a hearing before the committee, Gen. Merritt modified his statement as to the abandonment of Fort Missoula, to the effect that the stronger reasons were in favor of the abandonment of Fort Custer, and that Missoula might well be maintained for some years to come, and possibly, permanently. The range of mountains between it and Helena, the proximity of Indians, and other circumstances sustain this retention of Missoula.

The committee recommend that the bill be amended by striking out the word "three," in line 7, section 2, and inserting the word "one," so as to appropriate but $100,000, and as so amended that the bill do pass.

WAR DEPARTMENT,
Washington, March 1, 1892.

SIR: In returning herewith Senate bill 1881, Fifty-second Congress, first session, "A bill to establish a military post near the city of Helena, in Lewis and Clarke County, in the State of Montana," which was referred to this Department by your committee on the 1st ultimo, for information and remark, I beg to state that the importance of establishing a military post at Helena, Mont., had been considered by the military authorities, and presented by them to the Department prior to the convening of the present Congress. The Major-General Commanding the Army, in an indorsement of November 12, 1891, upon the subject, remarked as follows:

"It would undoubtedly be advantageous to the military service to establish a permanent post at Helena, Mont., * * * and I recommend that this measure be adopted whenever Congress may be pleased to make the necessary special appropriation for the construction of barracks and quarters at that point, provided the necessary land can be obtained without cost to the United States."

I inclose and invite especial attention to copies of letters from Gen. N. A. Miles, commanding the Department of the Missouri, and Gen. Wesley Merritt, commanding the Department of Dakota, dated, respectively, February 23 and 25, 1892, in which they forcibly urge the advantage and importance of establishing a post at Helena, Mont.

The annual reports of my predecessors for several years past, as well as reports of the military authorities, show that the question of concentrating larger forces at points of railroad intersection has received thorough and careful consideration, and that such concentration is regarded as highly advantageous to the military service, as it affords enlarged benefits to the troops, promotes among them a spirit of contentment, reduces the tendency to desertion, and secures greater economy to the Government by admitting of reduction in the number of smaller posts and lessening the cost of transportation, both of troops and military supplies.

The location of Helena makes it an important point for a large military post. If one is established there, it will be at the extreme northern end of a line of posts extending from the Gulf to the northern frontier, and with the Union Pacific Railroad coming up from the south, and the Northern Pacific and Great Northern railroads running to the north, east, and west, ample facilities will be afforded for the rapid concentration of troops where needed.

It may be added that the necessary site for a new post has already been proffered by citizens of Helena, and in view of the many reasons rendering the measure an important and desirable one, and as being in accord with the established policy of the Department, I fully concur in the views of the military authorities, and earnestly recommend the passage of the accompanying bill.

If desired, Gens. Miles and Merritt will be instructed to appear before your committee to give further information upon the subject.

Very respectfully,

S. B. ELKINS,
Secretary of War.

The CHAIRMAN OF THE COMMITTEE ON MILITARY AFFAIRS,
United States Senate.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Chicago, Ill., February 23, 1892.

SIR: In reply to your inquiry (just at hand) as to establishing a military post near Helena, Mont., I have the honor to submit the following:

It has for some years been the policy of the War Department (first announced by Gen. Sherman) to abandon the smaller and isolated posts, as they become unnecessary, and to concentrate the troops in garrisons of not less than one regiment, at posts near to telegraphic and railroad communications, in the interest of efficiency and also economical supply. In pursuance of this policy various small posts have been abandoned and larger regimental posts have been established at Vancouver Barracks, Wash.; the Presidio and Angel Island, California; Denver, Colo.; Fort Douglas, Utah; Fort D. A. Russell, Wyo.; Omaha, Nebr.; Forts Riley and Leavenworth, Kans.; Fort Snelling, Minn.; Fort Keogh, Mont.; Forts Sheridan, Ill., and Thomas, Ky; San Antonio, Tex., and Atlanta, Ga., and other places.

I was for some years in command of troops in Montana, and also the Department of the Columbia. From my experience and knowledge of the country I am able to say that Helena is well located for convenience of communication and economy of supply; is healthful and well adapted to a large military post. The proximity of Helena to the southern frontier of the Dominion of Canada makes it strategically important, as in case of war with Great Britain an invading force would proceed

from that direction to cut the Canadian Pacific Railway with fewer natural obstacles than would be encountered on most points of the frontier line. In addition to this a garrison at that point would be quickly available for use on either side of the Rocky Mountains, and I have the honor to recommend that a militrry post be established there.

Very respectfully, your obedient servant,

NELSON A. MILES,
Major-General, U S. Army.

Hon. STEPHEN B. ELKINS,
Secretary of War, Washington, D. C.

HEADQUARTERS DEPARTMENT OF DAKOTA,
St. Paul, Minn., February 25, 1892.

DEAR MR. SECRETARY: Referring to your note of February 18, I am of the opinion that a 10-company post should be built near Helena under the conditions set forth in Senate bill 1881. It has recently been the well-settled policy of the Government in concentrating troops in large posts to place them, all other things being equal, at railroad centers, which are generally the location of the larger towns of the country. This condition is peculiarly well filled by Helena. There we have easy communication north, south, east, and west. Three roads are here available to cross the continent in either direction, the Northern Pacific, the Great Northern, and the Union Pacific. From this point troops can be moved rapidly by rail to Utah, Wyoming, the Dakotas, or to any other of the points where our Indians assembled. Helena occupies a reëntrant angle with reference to the foreign territory to our north and is within easy distance by rail of the Canadian Pacific (British) Railroad. This city is the center of a rich mining and agricultural country. It is bountifully and cheaply supplied with meats and breadstuffs and fulfills better than any other point on our northern frontiers the condition of being, whether regarded internationally, or with reference to our country alone, a most important strategic point.

There are many economic reasons for the establishment of this post, which are secondary to those given above First, its establishment would lead to the abandonment of Fort Custer, which has lost its usefulness as a post; is, because of age, scarcely tenable now, and is most unfortunately located on account of its distance from railroads and liability to be snowed in for several months each year. As now situated Fort Custer is the most expensive post in the department to supply. The establishment of the post at Helena would also result in the absorption and abandonment of Fort Missoula. This is also desirable for several reasons, among which, not the least, is economy.

When I see you, which I hope will be soon, I will be prepared to enter more fully into details in these matters. In the meantime,

I am, with great respect, very truly, your friend.

W. MERRITT,
Brigadier-General, U. S. Army.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 624.

SALARIES OF RAILWAY POSTAL CLERKS.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. ENLOE, from the Committee on the Post-Office and Post-Roads, submitted the folowing

REPORT:

[To accompany H. R. 5671.]

The Committee on the Post-Office and Post-Roads, to whom was referred the bill (H. R. 5671) to reclassify and prescribe the salaries of railway postal clerks, have considered the same and report it back with the recommendation that it do pass.

The bill is intended to rearrange and improve the Railway Mail Service so that the compensation may be proportionate to the work performed. It reclassifies the service into seven grades, instead of five, and fixes the maximum salary in each grade. The maximum salary of the first grade under the bill will remain the same as at present fixed by law. The maximum fixed in each of the other grades is $100 above the present maximum, except the third grade, which is increased $200. The General Superintendent of the Railway Mail Service and the Postmaster-General concur in recommending the passage of such a measure.

The committee carefully examined the records of this service and its needs, and reached the unanimous conclusion that the good of the service requires this legislation.

Following the suggestion of the Postmaster-General, the committee omitted any specific appropriation to carry the law into effect, because the expenditure under it will have to be determined by the Department according to the demands of the service and estimates submitted to Congress by the Postmaster-General. In a letter to the committee, the Postmaster-General estimates the maximum annual expenditure under the law at $350,000, which estimate may be slightly increased or reduced when the reclassification takes place.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 625.

INVESTIGATION OF THE SLUMS OF CITIES.

MARCH 10, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BUNTING, from the Committee on Labor, submitted the following

REPORT:

[To accompany H. Res. 104.]

The Committee on Labor, to whom was referred House resolution No. 70 and sundry petitions relative to the investigation of the slums of cities having over 200,000 population, report as a substitute for such resolution the accompanying joint resolution and recommend that it do pass.

The question of the slum population in large cities, its origin, growth, vicious tendencies, and consequent moral degradation, as well as its effect upon independent labor, has long been a subject on which the public mind has been anxious. The nucleus of a population whose only crime is poverty, it breeds through the very nature of its enforced privations and necessities a condition which undermines the better impulses of its tenants, makes them tolerant of vices, and too often unconscious victims of crime. Initiated as honest and industrious, yet poor, its population is held by conditions which become as inexorable in humiliating its pride and ambition as prison bars. They therefore come to ignore purity, love vice, and by slothful contact with the worst tendencies of humanity are soon lost to restraint, and become a pitiable population of dependent victims whose only anxiety is their daily bread and whose sole economy is self-denial. A family in the slums becomes a detached, unsympathetic fraction of a tenement crowd; its secrets and confidence are despoiled by contact with influences which estrange sympathy and affection; its household pride suffers the infraction of jealous meddlings from characters already lost to maternal instincts and filial love; the polish of domestic speech and sentiment becomes contaminated with the coarse vulgarity of a license which breeds from viciousness a depravity. The mother weans the affection of her child, the father denies protection to the honor of his offspring, while children starving for food as well as maternal ministrations grow up orphans under a common inheritance of vice.

Another baneful effect of this seemingly unavoidable accretion is the opportunity which it offers for speculation in the labors of a class whose needs force them into servitude. With African slavery abolished and the alien contract law on our statute books, we nevertheless have through the sweating system a species of slavery worse in its moral aspects, because initiatory to vicious lives and more circumventing to the honor and ambition of American labor than either legalized slavery or an open license for importing a pauper population under contract. *American labor, although* a published beneficiary of the protective sys-

tem, nevertheless has to compete with absolute free trade in the importation of foreign labor. It is not an unreasonable demand, therefore, on the part of domestic labor that direct speculation in foreign pauper labor, now prohibited by law, shall not be continued by indirection through the sweating system. Sandwiched between an underbidding pauper contract system on the one hand and improved facilities on the other hand, which is constantly enforcing less man-power in muscle and more in machinery, the American laborer has cause for concern, and his just grievance may well awaken anxiety on the part of the people and instill a more popular appreciation of his just demand on the Government for true protection.

The resolution offered is intended as a groundwork not only of philanthropic reform, but as a basis of judicious corrective legislation. Inquiry into the nationality, foreign condition, and length of time in this country if of foreign birth, occupation, and earnings, will give a clear basis of facts on which to predicate reform.

The investigation will not only prove a difficult one, but a dangerous one as well, and nothing short of the tact and machinery of the Labor Commissioner's department would give promise of satisfactory results. A letter under date of March 5, 1892, from the Commissioner of Labor, herewith reported, explains more fully the manner of the investigation proposed and the beneficent results sure to come from such investigation.

DEPARTMENT OF LABOR,
Washington, D. C., March 5, 1892.

DEAR SIR: I have the honor to acknowledge receipt of yours of March 3, in which you kindly ask my opinion as to the relative merits of the investigation of the sweating system under the proposed legislation directing this Department to investigate the slums of cities and the investigation proposed by the Committee on Manufactures.

In reply I would say that, should the proposed bill directing this Department to investigate the slums of cities become a law, the proper method of procedure would be of the use of clearly defined inquiries in schedule form, to be used by experts actually canvassing the districts involved. By this method the wages paid under the sweating system, the extent of such system, the character of the person employed under it, the conditions surrounding it, and other desired data could be readily obtained. By proper administration the cost of making the goods under the sweating system could also be ascertained, and these additional inquiries, conducted as a part of the investigation proposed by the bill you have under consideration, could be made with but little additional expense to that involved in the main investigation of the slums of cities. The character of persons employed, their condition as to living, their nationality, sanitary surroundings, and wages are the main features, I judge, contemplated by the House resolution instructing the Committee on Manufactures to investigate the sweating system. I am therefore of the opinion that the investigation contemplated by your committee would cover all that it is desired to be covered by the investigation of the Committee on Manufactures.

The methods under the two investigations would be dissimilar in every respect. Our investigations are always made through the instrumentality of experts at work upon the ground. This enables us to secure fairly exact information. The method which a committee must necessarily adopt is usually that of "hearings," in which all who have anything to say upon the subject under consideration are given the opportunity of saying it, and while many who come before the committee may have valuable general information to offer it, they are not the persons, as a rule, who can give the exact information desired. They are more often those who have views to express, but general views and opinions rarely enable a committee to reach a conclusion, except in a general way. If I understand the aim of the Committee on Manufactures, it is to secure just the exact data I have enumerated, and not a generalized idea as to the evils which may be involved by the system under consideration. The investigation of the Committee on Manufactures would be of very great value along the general lines I have stated, and it might result in securing wages and information as to conditions, etc., but under the method of "hearings" a difficulty arises in this case that does not arise under the methods adopted by this Department, and that is that persons involved in the sweating system—the real persons, I mean those who

are actually employed under it—very likely would not be the ones who would attend a hearing. Their fears of discharge or of some kind of oppression as the result of giving information would deter them from making in a public way the very statements that the committee desires to obtain. On the other hand, our own methods are such that we get at the individual in his own home, and not only that, but we get at books of account, so as to verify statements.

Trusting that I have fully answered your inquiry, I am, very respectfully,

CARROLL D. WRIGHT,
Commissioner.

Hon. T. L. BUNTING,
House of Representatives.

A description of an average tenement in the slums furnishes a chapter of human experience which astounds the sensitiveness of society and which should work its sympathy into pledges of missionary plans.

Picture the huddling of a half dozen families into a single gloomy apartment, an apartment where the sun's rays never penetrate, where the damp of disease is ever prevalent. In this pen of filth, infected with vermin, these families eat their scanty crusts in squads, sleep on the floor often without cover; cleanliness, modesty, sexual delicacy, and purity of speech are sacrificed to the remorseless exigencies of want. Here we may find also wrecks of humanity carried down to the lowest ebb of human existence by drink, and often the piteous pleadings of children for a morsel to eat does not restrain parents from drowning their grief in stimulants which stand for the last nickel. Here children are born and nursed upon the breast of dissipation; their little lives contaminated with teachings as destructive as their inherited instincts, they trudge through childhood without encountering even a mother's smile.

Is it surprising that with such a nucleus of depravity there goes forth into the channels of business and society a class who fill prisons and pauper's graves?

Humanity has a demand on every government, and when the proof is ample that we have in this country a population which our most reliable data fixes at a million people who know nothing but squallor and privation, and whose existence is often on a plane which strikes below the care extended to domestic brutes, humanity will speak in both law and benevolence. Philanthrophy will take direction from such data and the missionary spirit will supplement law and pervade these haunts of vice and misery as sunshine lights the prison gloom.

A better knowledge of our slum population, a knowledge as to how far such local accretions are influenced by outside agencies, by the action of foreign countries or State policies, is also becoming more and more imperative if we would protect ourselves as a Government from the abuses which corrective measures applied in other countries inflict upon us, or avoid the injustice of policies which any State may adopt to the detriment of other States. The natural remedy applied for the purification of slum populations is a plan which aims to counteract accretions by a redissemination of the slum element. It is plain, therefore that with European cities alert in the study of such sanitary and economic questions, the United States may become the dumping ground for a class of immigrants not desirable in upbuilding the citizenship of a free country or advantageous to American labor with which it comes in competition. The same objection holds good as between the different States, and is an argument, therefore, in favor of an interstate policy such as is purposed by this resolution.

There are sixteen cities in the United States which would come under the *provisions of this resolution.* Of this number there are at least five

in which there is no slum population proper, leaving the cities to be investigated as follows: New York, Philadelphia, Chicago, Brooklyn, St. Louis, Baltimore, San Francisco, Cincinnati, New Orleans, Pittsburgh, and Boston. The amount of appropriation called for is very small, and could not with an independent bureau be made to cover the necessary expense. The Labor Department, with its full equipment of statistical experts, stenographers, translators, and copyists, together with its twenty special outside agents required by law, is fully armed to consummate the work with economy and dispatch, because the work is in line with the general purposes and labors of that Department.

To complete these statistics, independent of this well-established Bureau, would cost over $100,000. Massachusetts by an act approved June 11, 1891, calling for statistics relative to families residing in rented tenements in the city of Boston, appropriated $10,000. We have information from the chief of the bureau of statistics for that State that the field work was carried out for that sum, but that a small appropriation is still needed for the purpose of tabulation. This would indicate that the amount called for is economic.

The Committee on Labor earnestly recommends the adoption of this resolution, and that the Commissioner of Labor is hereby directed to make a report to Congress of the work herein authorized at the earliest date practicable.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 626.

FOREIGN EXHIBITORS AT THE WORLD'S COLUMBIAN EXPOSITION.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. TILLMAN, from the Committee on Patents, submitted the following

REPORT:

[To accompany S. 2315.]

The Committee on Patents, to whom was referred the bill (S. 2315) to protect foreign exhibitors at the World's Columbian Exposition from prosecution for exhibiting wares protected by American patents and trade-marks, have had the same under consideration and beg leave to make the following unanimous favorable report.

The necessity for enacting a law like the one proposed by this bill must be apparent to any one who will give the matter a moments reflection, and the measure ought not to receive any opposition.

So important is the suggested legislation deemed by the State Department of our Government, that the Secretary of State has addressed a separate official letter to three different committees of the House—Patents, Foreign Affairs, World's Columbian Exposition, and to each of an equal number of committees of the Senate, to wit, Patents, Foreign Relations, and Quadro-Centennial—urging the passage of the bill under consideration, which was drafted by the Commissioner of Patents.

Your committee, while unanimously approving the bill, yet beg leave to recommend one amendment, which is after the word "with," in the seventh line, to insert the words "and necessary to," so as to read, "performed in connection with and necessary to the exhibition," etc.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 627.

EVIDENCE IN APPLICATION FOR PENSIONS.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. BUTLER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5757.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5757) concerning the burden of proof of soundness, and forbidding discrimination against evidence of witnesses on account of want of official rank, in application for pensions, respectfully report:

That the title of the bill be amended by striking out the first eight words of said title. That the bill be amended by striking out the entire first section, and the words "Sec. 2," at the beginning of the second section; that it be further amended by striking out two word "commanded," in the fifth line, on page 2, of said bill, and inserting in its stead the word "directed;" also, by striking out the word "matter," in the thirteenth line, on page 2, and inserting in its stead the words "material fact."

The object of this bill, as so amended, is to compel the discontinuance of the improper and unjust class distinction, which has long been in vogue in the Pension Bureau, requiring the testimony of two private soldiers to equal that of one who had been an officer in the same service.

So obvious is the justice of the proposed bill that your committee deems an argumentative report unnecessary, and therefore confines its expression of opinion to the recommendation that the bill as amended do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 628.

FALSE SWEARING BEFORE TRIAL BOARDS OF THE POLICE FORCE AND FIRE DEPARTMENT OF THE DISTRICT OF COLUMBIA.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. HEMPHILL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 6295.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 6295) to punish false swearing before trial boards of the Metropolitan police force and fire department of the District of Columbia, and for other purposes, beg leave to report that they have had the same under consideration and recommend that the bill do pass.

The only object of the bill is to give the Metropolitan police force and fire department the power to compel the attendance of witnesses and to punish false swearing when any member of either of these departments is before the board for trial on any charges that are properly preferred against them under the existing statutes.

The committee see no objection to the passage of such a bill, and inasmuch as this law is in force in most of the cities of the Union, so far as they have been able to gather, they recommend favorable action upon the part of the House.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 629.

LAND TITLES IN DISTRICT OF COLUMBIA.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. HEMPHILL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 6013.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 6013) to amend the laws relating to land titles in the District of Columbia, have carefully considered the same and submit the following report:

The laws relating to the acquisition of titles to land, and the conveyance of same, now prevailing in the District are practically the same that prevailed in Maryland one hundred and fifty years ago, and much land is lying idle that would be improved if the owners could be assured that they would not be disturbed and harassed by land-sharks and speculators in old titles. The first section makes the law the same as it is in twenty-seven of the States, and many others have provided by statute for simple forms of conveyancing.

The remaining sections provide relief for persons owning land heretofore sold by trustees, executors, guardians, or by order of the orphans' court, and at tax sales; also for those who claim title by descent but have no record evidence of their title.

A bill of practically the same purport was favorably reported by this committee in the second session of the Fifty-first Congress, and the letters of the president of the Board of Commissioners of the District and Mr. Mahlon Ashford, an attorney of this city, relating to the bill then reported, are printed herewith and made a part of this report, together with a letter from Mr. Hazelton, attorney for the District of Columbia, in reference to two bills pending before the present Congress and having the same object as the one herewith reported.

The committee recommend that the bill pass with the following proviso added to section 6:

Provided, That sections 3, 4, 5, 6, shall not operate upon or as to any property about which litigation is now pending in any of the courts of the District of Columbia or of the Supreme Court of the United States, for the period of three years from the date of any final decree which may be rendered in any of said cases.

OFFICE OF COMMISSIONERS DISTRICT OF COLUMBIA,
February 19, 1890.

SIR: We herewith return House bill 5390, "to amend the laws relating to land titles in the District of Columbia, and for other purposes," and with it transmit the *opinion of the attorney* for the District, and an elaborate and entirely correct state-

ment of the present condition of land titles, by M. Ashford, whose long experience in that work entitles his opinion and statements to a great deal of consideration. We adopt them and most earnestly request that the bill be enacted into a law.

Mr. Ashford's statement is so full and complete that we can do no better than adopt it as our argument in behalf of the passage of the bill.

Respectfully,

J. W. DOUGLASS,
President

Hon. WILLIAM W. GROUT,
Chairman Committee on the District of Columbia, House of Representatives.

WASHINGTON, D. C., *February 17, 1890.*

MY DEAR SIR: The inclosed bill (H. R. No. 5390) embodies some sections of a bill which I prepared over three years ago, but which failed to receive Congressional action from lack of proper attention, although it received the unanimous indorsement of the judges of our court and the legislative committee of the bar association.

It is the result of twenty-five years' experience and observation as an examiner of land titles in this District; and, while having no personal or pecuniary interest in the matter, I was induced to prepare the bill in the hope that it might at least open the way to such reforms in our land laws as are demanded by the spirit of the age, and as would place us in a measure upon a level with the advancement made in the States of the Union on this subject.

As you are aware the transfer of land titles in the District of Columbia is governed by the common law, so that—

First. If a deed or will conveying or devising a parcel of ground omits the word "heirs" only a life estate passes, contrary to the manifest intention of the parties.

Second. A grant or devise to two or more persons creates a joint estate, with a right of survivorship, unless a contrary intent is expressed.

These arbitrary and technical rules have entailed, and continue to entail, incalculable trouble and expense upon persons dealing in real estate. They have long since been abolished in many of the States, and the object of sections 1 and 2 of this bill is to abolish them here.

SECTION 3.

The provisions of section 3 are needed, because, prior to 1863, the proceedings of the chancery court and of the orphans' court were rarely spread upon the record, and in numberless cases the original papers have been lost or destroyed. It is safe to say that at least one-third of the titles to real estate in this District rest upon sales in chancery and under decrees of the orphans' court, the record of which can not be found.

A great many titles rest upon ancient deeds by executors, though no will is recorded here.

This section, therefore, proposes to assist the record in such cases by making the recitals of the officer's deed prima facie evidence of the facts recited.

SECTIONS 4 AND 5.

As to the acquisition of title by adverse possession, we are governed by the statute of 21 James I. On this point we are traveling along in the ruts of centuries ago, when there were no railroads, telegraphs, or newspapers, and twenty years continued inclosed possession is required to create a title by adverse possession, while a number of the States have reduced that period—some to seven, some to ten years.

Again, the courts have construed such possession to mean an open, notorious possession with the inclosure or occupation, or open use of the property, so that a man may have purchased real estate in good faith and may have had it listed in his name and paid the taxes upon it regularly more than twenty years, and yet it counts as nothing against a person who may be able to prove a better paper title. From this clause it is believed that there are over 2,000 lots of ground in this city that have been lying idle and unproductive for over thirty years and yielding little revenue to the District, because the owners are afraid to invest in their improvement.

The fourth section proposes to reduce the period for acquiring title by adverse possession from twenty years, as at present, to ten years, and the fifth section makes a listing of the property and continued payment of taxes by a purchaser in good faith or those under whom he claims equivalent to actual possession, with a saving in both cases of the rights of persons laboring under legal disabilities.

SECTIONS 6 AND 7.

Sections 6 and 7 provide a simple and inexpensive mode of perpetuating the evidence of an adverse possession acquired under sections 4 and 5. There is at present no statute which will enable an owner by adverse possession to prove his title until he is put upon proof by an action of ejectment brought against him, and then he may be deprived of the ability to prove it by the death or removal of the witnesses by whom the fact could be proved. In several of the States statutory provisions of this kind prevail. These sections provide a mode by which, after public advertisement on a petition filed in court and proof taken under the direction of the court, a decree may be obtained establishing the title by possession, and this decree, on being filed and recorded among the land records, forms one of the muniments of title, with a saving in favor of persons laboring under disabilities.

SECTIONS 8 AND 9.

The object of sections 8 and 9 of the bill is to provide an expeditious mode of perpetuating record proof of heirship where titles depend upon the facts as to whether a person of one name making a conveyance is the heir-at-law of the last record owner of a different name.

It frequently happens in the investigation of a title that we find a title vested by the record in "A," and some years afterwards conveyed by "B," without any intimation on the record as to how "B" acquired title, and after considerable delay, vexation, and expense, it will be learned—but only from hearsay—that "B" was only heir of "A." It would, therefore, be of great benefit to the public to have some short and inexpensive mode of perpetuating on the record, while the evidence is easily obtainable, facts upon which may depend the title to valuable real estate.

SECTION 10.

Under existing law the real estate of a deceased person is subject to the payment of his debts, in the event of his personal estate proving insufficient.

The law fixes no time within which a bill may be filed for that purpose. It will be readily seen, therefore, that there is no absolute safety in purchasing real estate of which a party dies seized, for their may be debts of or claims against the estate in excess of personal assets which may not mature or come to light for years after the death of the late owner. Certainly there can be no objection to a reform on this point, and the object of section 10 is to remedy the evil by requiring all creditors of an estate, whether their claims shall have matured or not, to file notice in the proper office within a given period or lose their equitable lien as against a purchaser.

Very respectfully,

M. ASHFORD.

Hon. GEORGE C. HAZELTON,
Attorney of District of Columbia.

OFFICE OF THE ATTORNEY, DISTRICT OF COLUMBIA,
338 Indiana Avenue, Washington, D. C., February 1, 1892.

GENTLEMEN: Senate bill 1313 and House bill No. 139 entitled "Bills to amend the laws relating to land titles in the District of Columbia, and for other purposes," are identical in their provisions and purposes, and substantially the same as House bill No. 5390, introduced by Mr. Perry in the second session of the Fifty-first Congress, and reported by the House favorably by Mr. Hemphill on behalf of the District Committee, January 13, 1891, by report No. 3449, and entered upon the Calendar of the House. This bill died there for want of time for its consideration. The same legislation is now proposed by the two bills under consideration. I call your attention to the fact, that the report upon No. 5390, by Mr. Hemphill, embraces the communication addssered to me by Mr. Ashford, president of the Real Estate Title Insurance Company of this city, dated February 17, 1890, assigning the reasons for the passage of this bill by Congress, and which communication the Commissioners adopted as the foundation of their report in urging the passage of the billat that time.

For your convenience and because the reasons assigned by Mr. Ashford in favor of this proposed legislation are all well taken and will, as I believe, commend themselves to everybody who understands the condition of the law on this subject in the District of Columbia, and are sufficient to enlighten the judgment of the committee and of Congress as to the merits of the bill and the absolute necessity that it become

a law, in order that this District and its people may be eliminated from the burdens of the old English law, which it inherited under the act of February 27, 1801, and has never yet been able to throw off by proper legislation, although Maryland and the other States of the Union have relieved themselves therefrom through the power of their States' legislatures long since, I again make his communication a part of my report to you upon the character and merits of these two bills, the one of the Senate and the other of the House, and ask that you accept the same report as applying to both of these bills. I attach the report hereto referred to in favor of bill No. 5320.

Yours truly,

GEO. C. HAZELTON,
Attorney for District of Columbia.

HON. COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 630.

PAY FOR CONDEMNED ALLEY IN THE CITY OF WASHINGTON.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. HEMPHILL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 6646.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 6646) to pay for alley condemned in square numbered 493, in the city of Washington, D. C., have considered the same and report it back to the House with the recommendation that it do pass.

The parts of the report of the Committee on the District of Columbia made in the second session of the Fifty-first Congress, hereto attached, are made a part of this report, together with the letter of Mr. A. C. Matthews, Comptroller, which is herewith printed.

[House Report No. 3391, Fifty-first Congress, second session.]

* * * * * * * *

The report on that bill was in the following language:

"In the year 1881 Congress appropriated a certain sum for amounts due property owners for ground condemned and used for alleys of the city. The amount due to owners of square No. 493 was never called for, and was covered into the Treasury as a surplus.

"The Commissioners of the District, to whom a copy of the bill was sent for their approval, say:

"'The land has been condemned and taken for public purposes, and should be paid for.'

"Your committee therefore report the bill back to the House, and recommend that it do pass."

The act read as follows:

"AN ACT to reappropriate to pay for alley condemned in square numbered four hundred and ninety-three.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That of the surplus that has been covered into the Treasury of the sum appropriated by the act approved June thirtieth, eighteen hundred and eighty, entitled 'An act making appropriations for the District of Columbia for the year ending June thirtieth, eighteen hundred and eighty-one,' for amount due property owners for ground condemned and used for alleys, there be, and the same is hereby, reappropriated so much as will be sufficient to pay, with interest at the rate of six per centum per annum from August sixth, eighteen hundred and seventy, to the date of the approval of this act, the persons entitled to the amount awarded by the jury of condemnation for the land taken for an alley through square numbered four hundred and ninety-three, in the city of Washington, in the District of Columbia.

"Approved, March 1, 1889."

This act became inoperative because the appropriation out of which the money was to be paid had already been disposed of, half of it to the surplus fund and the other half to the District of Columbia, as reported by the First Comptroller of the Treasury, whose letter is hereto attached.

The committee recommend that the bill do pass.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., January 24, 1890.

SIR: Your letter of this date has been received and in reply thereto you are respectfully informed that the act of March 1, 1889, entitled "An act to reappropriate to pay for alley condemned in square numbered four hundred and ninety-three" (Stats. at L., vol. 25, p. 781), can not be carried into effect because before the passage of that act the "surplus" mentioned therein had been disposed of as follows: One-half thereof had been carried to the surplus fund of the United States as provided by section 3690, Revised Statutes, and the other half had been reappropriated by act of June 30, 1884, and carried to the credit of the District of Columbia, on account of the sewer debt of the District of Columbia to the United States.

Very respectfully,

A. C. MATTHEWS,
Comptroller.
By J. R. GARRISON,
Deputy Comptroller.

DANIEL O. C. CALLAGHAN,
Washington, D. C.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 631.

FRAUDULENT TRANSACTIONS ON THE PART OF COMMISSION MERCHANTS.

MARCH 10, 1892.—Referred to the House Calendar and ordered to be printed

Mr. HEMPHILL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany S. 1058.]

The Committee on the District of Columbia, to whom was referred the bill (S. 1058) to prevent fraudulent transactions on the part of commission merchants and other consignees of goods and other property in the District of Columbia, have considered the same and report it back to the House with the recommendation that it do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { RE No

UNLAWFUL APPROPRIATION OF THE USE OF PROPE

MARCH 10, 1892.—Referred to the House Calendar and ordered to be print

Mr. HEMPHILL, from the Committee on the District of Columbia mitted the following

REPORT:

[To accompany S. 1057.]

The Committee on the District of Columbia, to whom was referr bill (S. 1057) to punish the unlawful appropriation of the use property of another in the District of Columbia, have consider same and report it back to the House with the recommendation do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 633.

PAYMENT OF A CERTIFICATE OF INDEBTEDNESS OF THE DISTRICT OF COLUMBIA.

MARCH 10, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MEREDITH, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 6891.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 6891) authorizing the payment of a certificate of indebtedness of the District of Columbia, No. 4987, having considered the same, reports it back to the House with the recommendation that it do pass.

The facts are as follows: The certificate of indebtedness (No. 4987) mentioned in said bill is what is known as a sewer certificate issued under section 7 of the act of the legislative assembly of the District of Columbia, approved June 26, 1873, and was taken by the holder of the same in payment for work performed for the said District of Columbia. It has never been paid and the Commissioners of the District are now without authority to pay the same; hence the necessity of this act of Congress.

The debt is a just one and the holder of the certificate being without a remedy except by legislative aid, it is deemed eminently proper that he should have the relief afforded by this bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 635.

WILLIAM COLVILL.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HARRIES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 6562.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6562) granting an increase of pension to William Colvill, submit the following report:

William Colvill served as captain of Company F, First Minnesota Infantry, from April 29, 1861; promoted major August 28, 1862; lieutenant-colonel September 26, 1862, and colonel May 6, 1863; he was mustered out January 11, 1864, on account of disability from wounds received in action. He was wounded June 30, 1862, at White Oak Swamp, Virginia, and again at the battle of Gettysburg, July 2, 1863, and he is now pensioned at $30 per month for gunshot wounds of right foot and of right shoulder. He was examined February 23, 1887, by a board of surgeons, who describe his disabilities as follows:

> Ball struck the tarsus (instep), passing through and coming out on inner side, injuring the bones. A number of pieces of bone came out. The whole foot is thickened; the toes are anchylosed, no voluntary motion in them. Ankle joint is anchylosed. A high heel on the shoe makes him walk on ends of toes and everts the foot. Whole foot looks weak. He does not require the frequent and periodical aid and attendance of another person, but it is equivalent to the loss of a leg. Ball struck head of right humerus, passed under scapula, carried away a process of a dorsal vertebra, and was cut out under the left scapula.

The rate of pension now paid in this case is what is known as "total" for the rank of colonel, or "second grade," being the rate provided for a disability so great as to totally incapacitate the pensioner for the performance of any manual labor. As there is no intermediate rate between $30 and $72 per month, the Pension Bureau can not increase this soldier's pension until his disability from the pensioned causes is such as to require the regular aid and attendance of another person.

In view of the gallant services of this soldier, and from the very great disability from which he is shown to suffer, your committee return the bill with the recommendation that it do pass, after being amended by striking out the word "seventy-five" in line 8, and inserting in lieu thereof the word "seventy-two."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 636.

MICHAEL LEAHEY.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HARRIES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5034.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5034) granting an increase of pension to Michael Leahey, submit the following report:

Michael Leahey enlisted in Company C, Seventeenth Wisconsin Infantry, February 1, 1862, and served until February 20, 1865, when he was discharged on account of a gunshot wound of the right leg received at the battle of Kenesaw Mountain. For this disability he is in receipt of a pension of $24 per month since March 3, 1883, prior to which time his rate was less. This man has also lost both arms by amputation at the elbows, caused by the bursting of a cannon at the general State celebration of the return of the Wisconsin troops on June 15, 1865.

For this additional disability there is no provision under the general pension laws whereby his pension may be increased to an amount adequate to his needs.

Creditable evidence shows that he is perfectly helpless and entirely dependent upon others, and requires constant attendance. The man is poor and has no means of support except his pension, which is insufficient.

It is recommended that the bill (H. R. 5034) allowing said Michael Leahey a pension of $72 per month in lieu of that he now receives, (that being the amount allowed soldiers having the same disability), do pass, after being amended by striking out the word "seventy-two" in line 8 and inserting in lieu thereof the word "fifty."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 637.

JOHN C. FORD.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. FLICK, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4022.]

The Committee on Invalid Pensions, to whom were referred the bill (H. R. 4022) granting an increase of pension to John C. Ford, submit the following report:

The beneficiary, as the records of the War Department show, served in the Union Army as a messenger and scout from September 20, 1861, to November, 1861, and captain of scouts from October 1, 1862, to November 25, 1862, and was appointed a captain in the Veteran Reserve Corps December 14, 1863, and served to November 17, 1865.

It also appears from testimony submitted, as well as from the records in the Adjutant-General's Office, that prior to his appointment as captain in Veteran Reserve Corps he served as captain of a company of scouts, and was appointed captain by Gen. Rosecrans October 1, 1863; was not regularly mustered into the service, but was paid by the United States, and performed very dangerous and valuable service to the country up to November 21, 1862, when he applied for appointment as an officer of the Veteran Reserve Corps.

His application was indorsed by Gen. McPherson, Governor Yates, and many other prominent persons, certifying to his distinguished services.

He applied for pension, alleging that when at Wilson Creek, Mo., about January, 1862, he had his feet badly frozen; at Shiloh, April 27, 1862, he contracted rheumatism; contracted diarrhea at Vicksburg July and August, 1863, and disability of eyes caused by being struck by a spent ball on top of head in 1862, and also for injury of left leg caused by his horse falling on him. He amply and satisfactorily proved all of said disabilities and that they were contracted in service and in line of duty, but all of said injuries, except the injury of the leg, occurred prior to his muster as captain of Invalid Corps and his claim was therefore rejected, except as to injury of leg, for which he is pensioned at $10 per month.

Your committee therefore return the bill with the recommendation that it do pass after being amended as follows:

Strike out all the lines after the enacting clause and insert in lieu thereof the following:

That the Secretary of the Interior be, and he is hereby, authorized and directed to increase the pension of John C. Ford, late a captain of Company H, Twenty-first Regiment Veteran Reserve Corps, so as to include, subject to the provisions and limitations of the pension laws, pension for such disabilities as may be shown to have been incurred in line of duty while acting as a scout and messenger between the dates September 20, 1861, and December 14, 1863.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 638.

CHARITY W. CLARK.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KRIBBS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 3718.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3718) granting a mother's pension to Charity W. Clark, submit the following report:

The pension is asked by claimant as mother of E. M. Clark, who was first sergeant of Company M, Seventeenth Pennsylvania Cavalry. He enlisted September 10, 1862, and died of typhoid fever at Camp Aquia Creek, March 22, 1863. The soldier left a widow and minor child, who were pensioned on account of the soldier's death. The daughter drew a pension during her minority, and the widow until her death in 1887. The mother applies under the act of June 27, 1890, but her application was rejected on the ground of no title, the soldier having left a widow.

It appears that the soldier was the only child of the claimant, and that she depended upon him for her support. A letter from Hon. M. B. Wright, and affidavits of Hon. Henry M. Seely, president judge of the twenty-second district of Pennsylvania, and letters from Mr. C. Durland and John T. Ball, reputable citizens of Honesdale, Pa., on file with your committee, all bear evidence to the fact that up to the time of his death the soldier contributed to the support of the claimant. Since her son's death the claimant has been living from place to place, wherever she could find food and shelter, and has been, and is now, wholly destitute and entirely dependent upon charity, being nearly 80 years of age and unable to earn a living for herself.

In view of the fact that there is now no one drawing a pension on account of the death of this soldier, and the great age and urgent needs of the claimant, your committee return this bill with the recommendation that it do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 639.

JULIA BODLEY.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MARTIN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 3905.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3905) granting a pension to Julia Bodley, submit the following report:

Julia Bodley is the widow of James C. Bodley, who was mustered into the volunteer service of the Army as major of the Eighty-eighth Regiment of Indiana Volunteer Infantry on the 29th day of August, 1862, and resigned on the 8th day of November, 1862, having served only two months and eight days. His resignation was based on surgeon's certificate of disability, which sets forth that—

> He is suffering from the effects of chronic inflammation of the liver and stomach, from which he has been suffering more or less for the past seven months, together with an obstinate form of intermittent fever, of frequent occurrences, keeping his system in a debilitated condition.

It also appears from the evidence that he suffered severely from chronic diarrhea during his army service, and that from the time of his discharge up to the date of his death he was in a depleted condition from the effects of said disease and the other diseases of army origin.

Shortly after his discharge, on May 10, 1863, he was injured by the premature discharge of artillery while celebrating the success of the Union Army. This injury rendered necessary the amputation of his hand, from which operation he was unable to rally, and died May 19, 1863. It is further shown, by the evidence of the several physicians who attended him in his last illness, that in their opinion the effect of the amputation would not have been fatal had it not been for the depleted and deranged condition of his system by reason of the diseases he contracted in service. On this point the medical testimony is quite positive and unanimous.

In view of the medical opinions and the other facts appearing in evidence, the case seems to be one where the soldier, in consequence of disability contracted in service and line of duty, was unable to withstand the effects of an operation which otherwise would not have been fatal. On the 9th day of November, 1889, the claim was rejected on the ground that cause of soldier's death could not be accepted as due to any disability contracted in service and line of duty.

It is shown by the evidence that Maj. Bodley was a good soldier while in the service; that Mrs. Bodley is now over 74 years of age, and has been a widow almost twenty-eight years, during which time she has earned her

living and supported her children until they were able to take care of themselves, by her own labor. She is now infirm and unable to labor and has no means of support, and is wholly dependent upon charity for her support. Her claim has been pending in the Department for eighteen years. It was once reported favorably for allowance, but was afterward rejected as herein set out; and, while there is doubt as to whether the claim is fully made out under the law, in our opinion, giving her the benefit of that doubt, we think a fair and liberal construction of the law would admit the claim, and we recommend the passage of the bill amended, however, by adding at the close of the bill the words "at the rate of $12 per month."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 640.

JAMES H. WILLEY.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCKINNEY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4808.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4808) granting a pension to James H. Willey, submit the following report:

The claimant herein bases his claim for pension on the following state of facts as set forth by himself. He enlisted April 19, 1861, at Lowell, Mass., in the organization known as Richardson's Light Infantry, which afterward became part of the Seventh Massachusetts Light Battery. The men went into camp for a week and were ordered back to Lowell and were quartered in Chesley Hall until about May 10, 1861, when they were ordered to Boston. On the way to Boston this claimant was struck in the right eye by a cinder from the locomotive, while sitting near the aisle. A Dr. Bradley, who was in the company, treated the eye, but failed to get the cinder out.

After getting to Boston they got orders to return to Lowell and fill up the company to 101 men, which was done. When the order came for the company to go the claimant was ready to go, but Dr. Hook and Dr. Bradley examined his eye and pronounced him unfit for service for three months, and advised him to go home, and to report as soon as his eye got well. He went to his home in Maine and did not return until the last of August, 1862, when he was arrested as a deserter, placed under guard, and sent to the United States general hospital at Augusta, and then to the commandant at Boston, where he was released from custody September 6, 1862.

In support of this statement the following evidence has been furnished:

A letter dated September 4, 1862, addressed to Gen. Schouler and signed by George F. Richardson, stating that James H. Willey was charged with being a deserter; that he had been one of the first to enlist in Richardson's Light Infantry; that about a week before the company left for Fort Monroe Willey had his eye badly injured by a cinder from the engine; he consulted Dr. Hook, who was surgeon of the company, and who told him he could not go with the company as it would be some months before his eye would be well; the company went off without him and next day was mustered into the service; he was never mustered in; he has lost the use of his eye; "I know all these facts from my own personal knowledge," the writer adds. On this letter is indorsed a statement by William Schouler, dated September 5,

1862, to the effect that the writer is a most respectable citizen and that the company referred to was named in honor of him.

A letter dated September 4, 1862, signed G. F. Richardson, and addressed to Col. Day, which states that Willey was never mustered into the service of the United States; that if he was a deserter, the circumstances are such that he could not have done differently. A statement as follows:

HEADQUARTERS RECRUITING VOLUNTEER SERVICE IN
MASSACHUSETTS AND OF MILITARY COMMANDER,
Boston, September 6, 1862.

It appearing that John H. Willey has never been mustered into the United States service, he is free to go and come without hindrance.

H. DAY,
Lieutenant-Colonel, Military Commander.

A letter signed by H. M. Hook, examining physician of the Richardson Light Infantry, and indorsed by William Schouler, adjutant-general, September 5, 1862. Mr. Hook says:

I examined James H. Willey for the duties of a soldier. I passed him as fit for service. Although at the time he was sound, yet before the company to which he was attached left Lowell, he was taken with inflammation of the eye caused by a spark from a locomotive. The day the company left I positively declared him unfit for any service, military or otherwise.

The certificate of a board of examining surgeons, August 4, 1886, shows that this claimant is nearly totally blind in the right eye; that he can see only light and shade with it. The claim for pension was rejected by the Pension Bureau on the ground that the records of the War Department fail to show that the claimant was ever in the service of the United States.

There is also on file an affidavit of Wilbur G. McCurdy, confirming the claimant's allegations as to his enlistment and the injury to his eyes.

By joint resolution approved March 29, 1886, the legislature of the State of Massachusetts ordered paid to James H. Willey the sum of $250, in consideration of injuries received while acting under the orders of the military authorities of the Commonwealth in the year 1861, and a certified copy of the resolution is on file.

It seems clear that this man's disability was incurred while practically and essentially in the service of the United States, although not technically so, inasmuch as he was not mustered into the service. Your committee, therefore, return the bill with the recommendation that it do pass, after being amended as follows:

In line 4, strike out the words "to pay to" and insert in lieu thereof the words "and directed to place on the pension roll, subject to the limitations and provisions of the pension laws, for injury to the right eye, the name of."

Strike out all of the bill after the word "Volunteers" in line 6.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 641.

ELIZABETH MOHAN.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. FLICK, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 888.]

The Committee on Invalid Pensions, to whom were referred House bill 888, respectfully report:

A pension was granted to Honora Mohan, widow of Thomas Mohan, soldier, and her minor child, Elizabeth, which was paid to her until her remarriage to James Mithen and the minor became 16 years of age.

In October, 1890, Honora Mithen, as guardian, applied for pension for Elizabeth Mohan, who was at that time and for several years idiotic. Said claim was based on the provision of the third section of the act of June 27, 1890, which in substance provides that if the child of the soldier be insane or idiotic the pension shall continue during the existence of said disability, and shall apply to all pensions heretofore granted or hereafter granted under this act or any former statute, such pension commencing from the date of application therefor after the passage of said act.

May 19, 1891, said application was rejected upon the ground that the act of June 27, 1890, does not authorize the restoration to the pension roll of permanently helpless minor children of deceased soldiers who were over the age of 16 years at the date of its passage.

While this decision may be technically correct, it is respectfully submitted that Congress may in this case justly come to the assistance of the idiotic daughter of the deceased soldier, and grant her a pension during the continuance of her disability, payable to her legally appointed guardian, and your committee recommend the passage of said bill, after amending the same by striking out of the seventh and eighth lines thereof the words "of eight dollars per month," and inserting the words "subject to the provisions and limitations of the act of June twenty-seventh, eighteen hundred and ninety."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 642.

SERGEANT LONG AND OTHERS.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ROCKWELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1926.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 12582) authorizing the President to place upon the retired list of the Army, Sergt. Francis Long and others, of the Signal Corps, United States, survivors of the Lady Franklin Bay expedition, having considered the same, report thereon as follows:

Sergts. Francis Long and Maurice Connell are now in the Signal Service of the United States Army. Under recent legislation, transferring the Signal Service from the War to the Agricultural Department, they will be mustered out of service June 30, 1891.

These men served 3 years with the Lady Franklin Bay expedition and during the last year at Cape Sabine where they suffered such tortures by cold, exposure and slow starvation as brought them to the verge of the grave. Some provision has been made for all other survivors of that ill-fated expedition, but these men's services and suffering have been wholly unrecognized, and they are about to be turned out of the Army after long and faithful service entirely unprovided for. Your committee believe the least that can be done for them is to allow them to be retired from the service with the rank they now hold.

The committee have attached hereto as a part of their report the correspondence with the Chief Signal Officer in regard to this bill, which fully explains the facts, and recommend the passage of the bill.

SIGNAL OFFICE, WAR DEPARTMENT,
Washington City, January 21, 1891.

SIR: In connection with this bill (H. R. 12582) the Chief Signal Officer has the honor to invite attention to the fact that Sergeants Long and Connell served 3 years with the Lady Franklin Bay expedition and during the last year at Cape Sabine suffered such tortures by cold, exposure, and slow starvation as brought them to the verge of the grave. Nothing has ever been done for either of these men, and now, at an age of nearly 40 years, unable to perform hard field service which would devolve upon them if they entered the line, they are about to be mustered out of service on June 30, at which period they will lose all the accrued advantages for retirement. It is strongly urged that this favorable consideration be given these men by the bill referred to, which if it is questioned as to its legality owing to the fact that the names of the men are inserted, can be amended by substituting for their names the words, "the surviving enlisted men of the Lady Franklin Bay expedition now serving in the United States Army."

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 643.

THOMAS P. O'REILLY.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCDONALD, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 3788.]

The Committe on Millitary Affairs, to whom was referred the bill (H. R. 3788) for the relief of Thomas P. O'Reilly, respectfully report:

After a careful investigation of the official record in this case, your committee find as follows:

First. The court-martial before which he was tried was not lawfully appointed, and therefore had no jurisdiction to try him. The department commander who appointed the court was also his "accuser or prosecutor" and therefore could not lawfully appoint the court in conformity with the act of May 29, 1830. (See Seventy-second Article of War.)

This position being sustained, then of necessity the whole proceedings of the court were unlawful and had no effect to remove the claimant from the Army.

Second. That it does not positively and distinctly appear from the record that the proceedings of the court-martial have ever in fact been approved or confirmed by the President of the United States, as the Articles of War require, before the sentence could be carried into execution. The proceedings, findings, and sentence of the court-martial were transmitted to the Secretary of War, but what he wrote thereon is in the usual form of departmental orders, and, so far as it relates to the approval of the sentence, indicates departmental action only, and not by order of the President. The fact that the order was his (the President's) own should not be left to inference alone.

The President, in passing upon the sentence of a court-martial and giving to it the approval without which it can not be executed, acts judicially, and such a power he can not delegate. (See recent decision of United States Supreme Court, May 27, 1887, in the case of Maj. Runkle, covering this point.)

Third. That the proceedings of the court-martial show plainly the accused had reason to believe that the members were especially selected to convict him.

It appears from the record the accused entered in regular order five good and sufficient challenges against members of the court for bias and prejudice, and bias and interest, all of which were overruled by the court martial, and he was forced to trial before this prejudiced tribunal, without counsel.

Fourth. That the court erred in failing to sustain the challenge of the accused to two members of the court, who were junior in rank to him in the same regiment, and, therefore, directly interested in his dis-

missal. Each gained promotion through his discharge, and one was used as a witness against him on the trial.

Fifth. That even if the court-martial had jurisdiction, and proceeded lawfully, the puerile technical offenses of which it found the accused guilty did not justify the sentence of dismissal, there being no question of moral turpitude involved.

Fortunately for justice's sake at this late day, it has not been found necessary to go outside the official record of the case to find the evidence required to sustain the claim now made in behalf of Col. O'Reilly. The record is overwhelmingly in his favor on the questions raised.

There is not to be found in the annals of court-martial proceedings in this country anything approaching the puerile lot of miserable technical charges that were trumped up against the accused, and the grossly illegal proceedings in the case are as good a travesty on justice as can be found.

An important paper to be considered in connection with this case is the following official letter from Gen. Stanley to the President:

HEADQUARTERS, DEPARTMENT OF TEXAS,
San Antonio, Tex., November 11, 1887.

His Excellency GROVER CLEVELAND,
President of the United States:

The subject of this note, Thomas P. O'Reilly, was appointed a lieutenant in the Twenty-second Infantry in 1867 and served five years. During that period I was colonel of the Twenty-second Infantry and for the greater portion of his service Lieut. Reilly was under my immediate command.

I take pleasure in testifying that during my association with him his character as an officer and a gentleman was unexceptional; indeed, in point of efficiency I relied upon him as one of my best officers. In the matter of the court-martial I can not speak, as I was absent on a distant expedition at the time.

Very respectfully,

D. S. STANLEY,
Brigadier-General, U. S. Army.

NOTE.—And I will add my testimony that socially you were a very pleasant feature in our little circle, and your cheerful, amiable temper and entertaining manner did much to brighten our life in that desolate country (Dakota). Even the memory of your hearty laugh is an antidote now for dull care.

Very truly, your friend,

Mrs. ANNA M. STANLEY.

(Mrs. Gen. D. S. Stanley.)

Col. O'Reilly served through the civil war, entering the Army a private in the Thirteenth Regiment New Jersey Volunteers, coming out at the close major of the One hundred and sixteenth Regiment United States Colored Troops, with two brevets of lieutenant-colonel and colonel conferred "for gallant and meritorious services during the war."

In all his ten years' service in the Army, from 1862 to 1872, he never had any trouble but the miserable difficulty that resulted in his dismissal.

Considering all the circumstances, your committee are satisfied that a great wrong has been done a meritorious soldier, who has risen superior to his misfortunes, as evidenced by his honorable career in civil life since leaving the Army.

Your committee therefore, believing this to be a case of great hardship, are of the opinion that only a full restoration to the rights, honors, and rank which he would now enjoy had he remained in the Army will do justice to the case.

He would now rank as captain in the Twenty-second Infantry from June 2, 1889, that being the date of the commission now held by Capt. Benj. C. Lockwood, Twenty-second Infantry, the officer who was next to him in line of promotion at time of dismissal.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 644.

QUINCY McNEIL.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. NEWBERRY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 6033.]

The Committee on Military Affairs, to whom were referred the bill (H. R. 6033) for the relief of Quincy McNeil, submit the following report:

Quincy McNeil entered the volunteer service in May, 1861; was mustered in as captain Thirteenth Illinois Infantry May 24, 1861; promoted to major Second Illinois Cavalry August 10, 1861; mustered August 13, 1861; resigned December 31, 1862. He was subsequently mustered into service as major Thirty-ninth U. S. Colored Troops March 10, 1864. He was tried by court-martial and cashiered as of date February 20, 1864.

Your committee have reviewed the charges, specifications, testimony, and finding of the court and sum it up in brief: That while in transit by sea he became drunk and indulged in coarse and ungentlemanly language. From the fact that this conduct was not when before the enemy and was not habitual this committee think the finding unusually and unnecessarily severe. No other offenses are charged.

Your committee considered a letter of the colonel of his regiment, the adjutant, and twenty of the captains and lieutenants recommending and praying his honorable discharge.

The committee also considered petitions of many citizens and officials of his city, county, and State, without regard to political affiliation, all commending him as a brave, true man.

Your committee recommend that the bill do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 645.

LIEUT. F. W. DAVIS.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 5649.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5649) for the relief of Lieut. F. W. Davis and granting him an honorable discharge report as follows:

The records show that Frank W. Davis enlisted as private in 1861, in Company E, Fifty-eighth Pennsylvania Volunteers, and reënlisted as a veteran in January, 1864, in same regiment, and was mustered as first lieutenant of Company E, same regiment, December 23, 1864. He was detailed to act as adjutant of the regiment. He repeatedly asked to be relieved from such duty, but the major commanding the regiment refused to send him back to his company.

On the 23d day of April, 1865, he was ordered by the major commanding the regiment to escort the colors with the color guard from regimental headquarters to the parade ground, and refused. For this trivial offense he was court-martialed and dismissed the service.

The committee recommend that the bill do pass.

The report from the War Department and petition from officers of the Fifty-eighth Pennsylvania Volunteers, and letter from colonel of the regiment, are herewith submitted and made part of this report.

WAR DEPARTMENT,
Washington City, February 10, 1892.

SIR: Referring to the letter of Mr. W. B. Chapman, attorney-at-law, of Bradford, Pa. (herewith returned), relative to the dismissal of Lieut. Frank W. Davis, formerly of the Fifty-eighth Regiment Pennsylvania Infantry Volunteers, submitted by you to this Department yesterday, with a request for a statement of the military history of the above-named officer, I am directed by the Secretary of War to inform you that it appears from the records that Frank W. Davis was enrolled November 8, 1861, as a private in Company E, Fifty-eighth Pennsylvania Volunteers, to serve three years; was appointed corporal April —, 1862, and sergeant, March 1, 1863; reënlisted as a veteran volunteer, January 1, 1864; was appointed first sergeant, November 22, 1864; was mustered in as first lieutenant, same company, to date December 23, 1864; and was dismissed the service as of the latter grade by sentence of general court-martial, June 14, 1865, promulgated in general court-martial orders of which the following is a copy:

[General Court-martial Orders, No, 68.]

HEADQUARTERS DEPARTMENT OF VIRGINIA, ARMY OF THE JAMES,
Richmond, Va., June 14, 1865.

I. Before a general court-martial which convened in Richmond, Va., pursuant to *Special Orders, No. 70,* from Headquarters Third Division, Twenty-fourth Army

Corps, dated April 14, 1865, and of which Lieut. Col. J. N. Patterson, Second New Hampshire Volunteers, is president, was arraigned and tried:

(1) First Lieut. Frank W. Davis, Fifty-eighth Pennsylvania Volunteers.

Charge 1.—Disobedience of orders.

Charge 2.—Refusing to do duty.

Charge 3.—Disrespect to his commanding officers.

To which charges the accused pleaded "Not guilty."

The court, after mature deliberation upon the evidence adduced, finds the accused guilty of the charges and does sentence him, the said First Lieut. Frank W. Davis, Fifty-eighth Pennsylvania Volunteers, to be dismissed the service of the United States.

* * * *

III. The proceedings, findings, and sentence in the case of First Lieut. Frank W. Davis, Fifty-eighth Pennsylvania Volunteers, having been approved by the officer calling the court, and forwarded for the action of the major-general commanding the Department, are by him approved.

First Lieut. Frank W. Davis, Fifty-eighth Pennsylvania Volunteers, ceases to be an officer of the United States from the date of this order.

* * * * * *

By command of Maj. Gen. Ord.

ED. W. SMITH,
Assistant Adjutant-General.

Hon. C. W. STONE, M. C.,
House of Representatives.

It is proper to add that it is beyond the power of this Department to afford any relief in cases of this character, as it is held to be impracticable to annul, set aside, revoke or modify a duly confirmed and executed sentence of a general court-martial.

Very respectfully,

F. C. AINSWORTH.
Captain and Assistant Surgeon, U. S. Army.

CAMP 58TH REGIMENT, PENNA. VOLS.,
Near Manchester, Va., June 20, 1865.

Hon. E. M. STANTON,
Secretary of War:

SIR: The undersigned, comprising all the commissioned officers of the 58th Regt. Pa. Vols., present, have the honor to request that so much of general court-martial orders No. 68, dated Hdqrs. Dept. of Va., Army of the James, Richmond, Va., June 14, 1865, as approves of the sentence of the court-martial in the case of 1st Lieut. Frank W. Davis, 58th Regt. Pa. Vols., be revoked, that he may be enabled to present his resignation. Lieut. Davis has been in the U. S. service since Nov., 1861; he is a young man, and, up to the fatal mistake that has caused his dismissal, was looked upon as one of the very best soldiers in the reg't. This has been his first offense, and we, therefore, with more confidence, most respectfully ask that the sentence be remitted, believing that a Government that can be magnanimous to its enemies can also be lenient to one of its erring defenders.

Very respectfully, your obd't servts.,

THOS. BIRMINGHAM,
Capt. Co. G.

P. M. FULLER,
Capt. Comdg. Co. E.

JOSEPH I. HESTED,
Lt. and R. Q. M. 58th Pa. Vols.

J. W. CAMPBELL,
Asst. Surg. 58th Pa. Vols.

JOHN F. WOOD,
Capt. 58th Pa. Vols., and Depot Ord. Off., Army of James.

JNO. M. COLLINS,
Capt. Co. F.

R. M. OVERHISER,
1st Lieut., Comdg. Co. H.

HANS HANSON,
1st Lieut. Comdg. Co. K.

ALVA G. ROGERS,
1st Lieut. Co. B., and Act. Adjt.

H. C. CHRISTY,
Surg. 58th Pa. Vols.

N. R. BUNKER,
Capt. Co. D., 58th Pa. Vols.

JOSEPH W. HANSON,
1st Lieut., Comdg. C Co.

WM. H. DEXTER,
1st Lieut., Comdg. Co. A.

CHIP I. TUBBS,
1st Lieut. Co. F, 58th Pa. Vols., Comdg. Detchmt. Pontooners.

JOHN HOFFA,
1st Lieut. Co. D, 58th Pa. Vols.

HEBER PAINTER,
1st Lieut., Comdg. Co. I, 58th Pa. Vols.

HEADQRS. 58TH P. V.,
Near Manchester, Va., June 21, 1865.

Respectfully forwarded, approved, as I consider that Lieut. Davis's being obliged to leave the service will suffice for the preservation of discipline, and I do not wish to subject him to the stigma of dismissal.

ROBERT C. REDMOND,
Major Comdg. 58th P. V.

HDQRS. 3D BRIG. 3D DIV. 24TH ARMY CORPS,
June 23, 1865.

Respectfully forwarded. App.

J. N. PATTERSON,
Col. 2d N. H. Vols., Comdg. Brigade.

HEADQRS. 3D DIV., 24TH A. C.,
June 23, 1865.

Respectfully forwarded. Not app'd.

CHAS. DENNY,
Brig. and Br. Maj. Gen. Com.

HDQRS. 24TH ARMY CORPS,
Richmond, Va., June 23, '65.

Respectfully returned for a statement of the charges and facts of this case.
By command of Major Gen. Gibbon.

T. ELLERY LORD,
Maj. and A. A. A. Gen'l.

HEADQUARTERS 58TH REGT. PA. VOLS.,
Near Manchester, Va., June 30th, 1865.

Maj. T. ELLERY LORD,
A. A. A. G. 24th Army Corps.

SIR: Pursuant to request from corps h'dqtrs. I have the honor to enclose herewith a copy of charges and specifications preferred against 1st Lieut. F. W. Davis, Co. "E," 58th P. V., act. adjt. I would respectfully state that Lt. Davis, previous to the conduct as set forth in the charges & specifications, repeatedly asked, both verbally and in writing, to be relieved from the duties of act. adjt., but for some reason, not explained, the officer comd'g the regt. failed to comply with the request.

It is on account of his previous very good character, extremely *good* soldierly conduct, coupled with his 4 years faithful services, that the officers of the regiment were prompted to petition in his behalf.

I am, sir, very respectfully, your obd't serv't,

P. M. FULLER,
Capt. Comd'g 58th Regt. Pa. Vols.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 646.

CHARLES S. BLOOD.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 4375.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4375) for the relief of Charles S. Blood, have had the same under consideration and adopt the report made to the Fifty-first Congress, as follows:

The Committee on Military Affairs, to whom was referred the bill (H. R. 7110) for the relief of Charles S. Blood, have had the same under consideration and submit the following report:

The facts in the case largely appear in the report of the Adjutant-General, submitted herewith and made a part of this report.

Charles S. Blood, the petitioner, had been a faithful soldier and officer for nearly two years, and about the 1st of July, 1863, was serving on detached duty away from his command, and at which time he was ordered to report back to his company. Hearing at the same time that his command had been ordered to St. Louis, Mo., he was about to rejoin them, when he got notice that his mother was severely ill at home, and he took occasion to pay her a brief visit before reporting to his command. While on his way back he found his captain, who persuaded him to remain with him a few days at St. Louis, as he (the captain) was severely wounded and needed his care. Owing to such absence without leave for a period of about four weeks, he was court-martialed and discharged from the service, although a large part of the time he had been caring for his captain's wound. Your committee believe that the penalty was disproportionate to the offense in view of the mitigating circumstances, and this is borne out by the fact that the Secretary of War made an attempt to set aside the findings of the court, after a careful review of all the facts.

Your committee recommend that the bill be amended by striking out the second section and adding to the first section the following words: "*Provided*, That said Charles S. Blood shall be entitled to no pay or allowance by virtue of this act from the date of his dismissal to the date of the final muster out of his regiment," and that the bill so amended do pass.

CASE OF CHARLES S. BLOOD, LATE OF FORTY-SEVENTH ILLINOIS VOLUNTEERS.

RECORD AND PENSION DIVISION,
March 12, 1890.

The records show that Charles S Blood was mustered in as second lieutenant, Company A, Forty-seventh Illinois Volunteers, to date June 20, 1862, and was dismissed the service in orders of which the following is a copy:

GENERAL ORDERS. No. 63. } "HEADQUARTERS DEPARTMENT OF THE TENNESSEE,
Vicksburg, Miss., October 14, 1863.

* * * * * * *

"III. At a general court-martial which convened at headquarters, Eleventh Regiment Missouri Infantry Volunteers (Camp Sherman, Miss.), on the 20th day of *August, 1863, pursuant to* Special Orders No. 57, of date August 12th, 1863, issued

from headquarters, Third Division Fifteenth Army Corps, by Brigadier-General Buckland, and of which Maj. William Stubbs, Eighth Regiment Iowa Infantry Volunteers is president, was arraigned and tried: Second Lieut. Charles S. Blood, Company A, Forty-seventh Regiment Illinois Infantry Volunteers.

"CHARGE 1.—*Disobedience of orders.*

"*Specification* 1: In this, that he, Charles S. Blood, second lieutenant Company A, Forty-seventh Regiment Illinois Infantry Volunteers, did, on the 29th day of June, 1863, he being on duty at Headquarters Third Division, Fifteenth Army Corps, receive a written order from Brigadier-General Tuttle, commanding said division, relieving him from duty at that place and ordering him, the said Blood, to report for duty to the officer commanding his company. That in disobedience of said order he, the said Charles S. Blood, did not so report or rejoin his company, which was at that time at Young's Point, La., but did remain absent from the command until the 10th day of August, 1863. This in the vicinity of Vicksburg, Miss., at the time above given.

"CHARGE 2.—*Absence without leave.*

"*Specification* 1: In this, that he, Charles S. Blood, second lieutenant of Company A, Forty-seventh Illinois Infantry, did absent himself, and remain absent from his company and regiment without authority, from the 29th day of June, 1863, to the 10th day of August, 1863. This in the vicinity of Vicksburg, Miss., at the time above given.

"CHARGE 3.—*Conduct prejudicial to good order and military discipline.*

"*Specification* 1: 'In this, that Charles S. Blood, second lieutenant Company A, Forty-seventh Illinois Infantry Volunteers, did on or about the 29th day of June, 1863, in defiance of Brigadier-General Tuttle's Special Order No. 36, of that date, to report to his company commander, absent himself without authority from his company, regiment, and the division, and go to the city of Peoria, Ill., and did not report to his command until on or about the 10th day of August, 1863. This in the vicinity of Vicksburg, Miss., at the time above given.' To which charges and specifications the accused pleaded as follows: To the specification to first charge, guilty. To the first charge, guilty. To the specification to second charge, guilty. To the second charge, guilty. To the specification to third charge, guilty. To the third charge, guilty.

FINDINGS AND SENTENCE.

"The court having maturely considered the evidence adduced in this case find the accused, Second Lieutenant Charles S. Blood, Company A, Forty-seventh Regiment Illinois Infantry Volunteers, as follows: Of the specification to the first charge, guilty. Of the first charge, guilty. Of the specification to the second charge, guilty. Of the second charge, guilty. Of the specification to the third charge, guilty. Of the third charge guilty.

And the court do therefore sentence him, the said second lieutenant Charles S. Blood, Company A, Forty-seventh Regiment Illinois Volunteer Infantry, to be dismissed the service of the United States and to forfeit all pay and all allowances due him from the 2d day of July, 1863."

"HEADQUARTERS FIFTEENTH ARMY CORPS,
"*Camp on Black River, Miss., September 1, 1863.*

"The proceedings, findings, and sentence in this case are approved. No amount of good reputation will justify a desertion of duty such as this case exhibits. The officer should be dismissed.

"W. T. SHERMAN,
"*Major-General, Commanding Fifteenth Army Corps.*

"Findings and sentence approved, and Second Lieutenant Charles S. Blood, Company A, Forty-seventh Illinois Infantry Volunteers, accordingly ceases to be an officer of the United States.

"By order of Major-General U. S. Grant.

"T. S. BOWERS,
"*Assistant Adjutant-General.*"

On December 7, 1863, and January 28, 1864, petitions were forwarded to this Department, signed by a number of officers of his regiment, praying that Lieutenant Blood be reinstated.

These petitions were referred to the Judge-Advocate-General of the Army for review, and were returned by that officer, under date of July 12, 1864, with the following report:

* * * * * * *

"The proof in the case is that the accused maintained an excellent character for good conduct and efficiency as an officer, up to the commission of the offense for which he was tried."

"It is shown by the testimony that the accused, being on duty at the headquarters of Third Division, Fifteenth Army Corps, near Vicksburg, Miss., received, on the 29th of June, 1863, an order from Brigadier-General Tuttle, directing him to report for duty to the officer commanding his company, at Young's Point, La. It was also shown that for several days after receiving this order the accused was necessarily engaged in the performance of duties required of him by a previous order; and it appears from his own statement before the court, that before he had completed the performance of these duties he received a letter from his father informing him that his mother was extremely ill, supposed to be at the point of death, and was most anxious to see him. The accused further states that he had been in the service over two years without visiting home, and that following the impulse produced by his father's letter, he at once started in fulfillment of what he believed to be the dying request of his mother, with the purpose of remaining at home not more than three days; but learning on his arrival there of the fall of Vicksburg, he remained at home seventeen days.

"Seventeen officers of the First Division, Sixteenth Army Corps, petition the President to reinstate this officer to his former rank and position in the Army, because he has always borne an excellent reputation as a thorough and efficient officer, whether in camp, on marches, or in action, and with the exception of the offense for which he was dismissed he has as clear a record of duties faithfully discharged as any officer need have; that he remained more than six months with his regiment after his trial, always ready and anxious for duty.

"The president and judge advocate of the court that tried the accused concur with the petitioners in the object of their prayer. These officers state that as no defense was made the court could not do otherwise than it did, but that in their opinion there existed, outside the record, 'at least a good partial defense, and that the accused was not guilty to the extent apparent on the record.'

"Brigadier-General Mower, to whom the case was submitted for information, states that while in his command Lieutenant Blood had, on all occasions, borne an excellent character. He was brave, worthy, and efficient, and was considered one of the best officers of the regiment.

"In view of the mitigating circumstances presented in his case, of his honorable record before trial, and his creditable conduct thereafter, it is believed that the disability imposed on this officer by the sentence of the court may properly be removed."

This report was referred to the Adjutant-General, with the following indorsement:

"WAR DEPARTMENT, *July 18, 1864.*

"Case of Charles S. Blood, late lieutenant Company A, Forty-seventh Illinois Volunteers. Respectfully referred to the Adjutant-General.

"The recommendation of the Judge-Advocate-General approved. The necessary orders will be issued, removing the disability in his case.

"By order of the Secretary of War:

"JAS. A. HARDIE,
"*Colonel and Inspector-General, U. S. Army.*"

And thereupon, on July 20, 1864, the commanding officer of the 47th Illinois Volunteers, and the governor of Illinois, were notified of the action of this Department in letters of which the following are copies:

"WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
July 20, 1864.

"SIR: I am directed to inform you that the President has removed the disability resulting from the dismissal of C. S. Blood, formerly a lieutenant in your regiment, and the governor of Illinois has this day been notified of the fact.

"THOMAS M. VINCENT,
"*Assistant Adjutant-General.*

"COMMANDING OFFICER,
"*47th Illinois Volunteers.*
"(Through headquarters 16th Army Corps.)

"WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
"*Washington, July 20, 1864.*

"SIR: By direction of the President of the United States the disability resulting from the dismissal of Charles S. Blood (formerly a second lieutenant in the Forty-seventh Regiment Illinois Volunteer Infantry), by sentence of general court-martial, as promulgated in General Orders No. 63, Headquarters Department of the Tennessee, October 14, 1863, is hereby removed, and he may be recommissioned should your excellency so desire.

"Very respectfully, your obedient servant,

"THOMAS M. VINCENT,
"*Assistant Adjutant-General.*

"The GOVERNOR OF ILLINOIS,
"*Springfield, Ill.*"

Since which date the status of the case has not changed.
Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 647.

HENRY ZELL.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ROCKWELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 209.]

The Committee on Military Affairs, having had under consideration a bill for the relief of Henry Zell (H. R. 3720), report that a bill like this has passed the Senate at the present session, being Senate bill 209, which was also referred to this committee.

For the reasons set out in the report accompanying said Senate bill, which is hereto attached and made part of this report, your committee recommend the passage of the Senate bill 209, and that the House bill 3720 do lie on the table.

[Senate Report, Fifty-second Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 2095) to place Henry Zell on the retired list of the Army, having considered the same, report as follows:

On the 14th day of February, 1885, Congress passed an act entitled "An act to authorize a retired list for privates and noncommissioned officers of the United States Army who have served for a period of thirty years or upwards," which provides:

"That when an enlisted man has served as such thirty years in the United States Army or Marine Corps, either as a private or as a noncommissioned officer, or both, he shall, by making application to the President, be placed on the retired list hereby created, with the rank held by him at the date of retirement; and he shall thereafter receive seventy-five per centum of the pay and allowances of the rank upon which he was retired."

Henry Zell was enlisted on the 12th day of February, 1847, and assigned to Company D, Third United States Infantry, and served in the Army of the United States for more than thirty years prior to his last discharge, which occurred on April 1, 1879, under successive enlistments, as set forth in the Adjutant-General's report, dated April 26, 1890, which is hereto appended. When last discharged he belonged to Company C, Twentieth Infantry.

Soon after the passage of the act of 1885 Zell made application for retirement under that act, but the Adjutant-General informed him, in a letter dated April 3, 1885, which is set out below, that the act did not provide for the retirement of one not in the service as an enlisted man at the time of his application.

Your committee are of opinion that this man should have the benefits of the provisions of the above-recited act, and recommend the passage of the bill, with the following amendments:

In line 4, after "Company," strike out "C" and insert "D."

Strike out all after "seventy-nine," in line 18.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., April 26, 1890.

Respectfully returned to the chairman Committee on Military Affairs, United States Senate, Washington, D. C.

Henry Zell was enlisted on the 12th day of February, 1847, at Schenectady, N. Y., and was assigned to Company D, Third Regiment of U. S. Infantry. The muster roll of said company for January and February, 1852, reports him discharged February 12, 1852, by expiration of service, a musician. He was again enlisted September 25, 1852, in Company D, Third Infantry; discharged July 25, 1857, by reënlistment, a musician. Reënlisted in the same company July 25, 1857; was subsequently transferred to the field staff and band of the regiment; discharged May 27, 1862, by reënlistment, a drum-major. Reënlisted May 27, 1862, in same; discharged December 29, 1862, for disability, a drum-major.

He was again enlisted September 3, 1863, in Company A, First Regiment, Veteran Reserve Corps; was promoted to principal musician, and transferred to the band of said regiment, and was subsequently transferred to the Seventh Independent Company, Veteran Reserve Corps, and was mustered out August 29, 1866, at New York City, with the company, a musician. He was again enlisted October 1, 1866, and was assigned to the post band at New Orleans, La.; discharged March 27, 1869, per S. O. No. 58, Department of Louisiana, New Orleans, March 24, 1869, a third-class musician. Reënlisted April 1, 1869, and was assigned to Company C, Twentieth Infantry; discharged April 1, 1874, by expiration of service, a musician. Reënlisted in same company April 1, 1874; discharged April 1, 1879, by expiration of service, a musician.

ARTHUR MACARTHUR, JR.,
Assistant Adjutant-General.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, April 3, 1885.

SIR: I have the honor to return herewith your application for retirement under the act of Congress approved February 14, 1885, creating a retired list for enlisted men, and to inform you that the act cited does not provide for the retirement of any one who is not in the service of the United States as an enlisted man at the time of his application.

Very respectfully, your obedient servant,

C. M. REEVES,
Assistant Adjutant-General.

Mr. HENRY ZELL,
No. 18 K street NE., Washington, D. C.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 648.

J. B. FULLER AND OTHERS.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 118.]

The Committee on War Claims, to whom was referred the bills (H. R. 3678, 2827, 2195, 2825, 2826, 1449, 6242, 7013, and 1841) for the relief of J. B. Fuller, David K. Patterson, L. D. Allen, Franklin Sessions, R. T. Cheek, Independent Order of Odd Fellows of Okolona, Miss., estate of Isaac Jones and Thomas C. Jones, Mary A. Dougherty, and Marshall Davis, have had the same under consideration and beg leave to submit the following report:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and herewith report a resolution to that effect and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 649.

N. B. LANIER AND OTHERS.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 119.]

The Committee on War Claims, to whom was referred the bills (H. R. 1148, 1152, 1151, 1156, 1020, 1017, 2915, 1024, 1022, 1023, 1157, 1154, 4790, 6848, and 5595) for the relief of N. B. Lanier, P. T. O'Shea, Jared R. Cook, Phœbe Cummings, A. E. Anderson, Walter R. Billingslea, Margaret Summer, Mrs. M. M. Davis and M. A. Doherty, James Murphy, Samuel Scott, estate of Adeline L. Hebron, estate of A. B. Downing, William Whitaker, W. A. Hopper, administrator of David Hopper, and Edward B. Willis, deceased, have had the same under consideration, and beg leave to report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and report herewith a resolution, and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 650.

NANCY WATKINS AND OTHERS.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 120.]

The Committee on War Claims, to whom was referred the bills (H. R. 5526, 5530, 5531, 5533, 5534, 5535, 5536, 5538, 5539, 5528, 7069, 7072) for the relief of Nancy J. Watkins, George Carpenter, W. H. Rice, James A. Heard, John R. Caldwell, Giles W. Bass, Wm. S. Webb, Thomas C. Greenhill, Thomas Brown, La Grange College, and La Fayette Female Seminary, of Colbert County, Ala., have had the same under consideration and beg leave to submit the following report:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and report herewith a resolution to that effect and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 651.

A. B. CHUM AND OTHERS.

MARCH 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 121.]

The Committee on War Claims, to whom was referred the bills (H. R. 4015, 6169, 4948, 4761, 3528, 5769, and 4297) for the relief of A. B. Chum, Mary T. Logan, widow of A. L. Logan, deceased; A. J. Smith, Mrs. L. J. Harvill, Timothy Meaher, administrator of J. M. Meaher, deceased; estate of Francis S. Jones, and the estate of D. M. Sparks, have had the same under consideration, and beg leave to report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and report herewith a resolution to that effect, and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 652.

SOPHIA G. MITCHELL AND ELIZA JANE MAHON.

MARCH 11, 1892.—Laid on the table and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 5193.]

The Committee on War Claims, to whom was referred the bill (H. R. 5193) for the relief of Sophia G. Mitchell and Eliza Jane Mahon, submit the following report:

This measure was considered by House Committee on the Judiciary in the Forty-sixth Congress, and was reported upon adversely (Report No. 1132), which is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend that the bill do not pass.

[House Report No. 1132, Forty-sixth Congress, second session.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 2586) entitled "A bill for the relief of Sophia G. Mitchell and Eliza Jane Mahon," having had the same under consideration, beg leave to make and submit the following report:

The property described in the bill, consisting of 116 bales of cotton, was raised, ginned, and baled by James H. Mitchell and Sophia G. Mitchell, his wife, upon a plantation known as Palatine Hills, in the State of Mississippi, where they resided. A life estate and the possession of this plantation were in Mrs. Mitchell, the remainder in Eliza Jane Mahon. Mrs. Mitchell is the mother of Mrs. Mahon and James H. Mitchell was her stepfather, and the plantation had been the property of Mrs. Mitchell's first husband, the father of Mrs. Mahon. James H. Mitchell died in 1862 and Mrs. Mitchell was the administratrix of his estate. During the minority of Mrs. Mahon, James H. Mitchell had acted as her guardian, receiving the profits of her estate, so that he became indebted to her in the sum of $24,701.46.

To secure this indebtedness he and Mrs. Sophia G. Mitchell duly executed to Mrs. Mahon (then Eliza Jane Mitchell) a certain mortgage bearing date the 23d day of February, 1841, whereby they conveyed to her the Palatine Hills plantation, with certain personal property therein enumerated and described, upon the express "condition nevertheless that if the said James H. Mitchell, party of the first part, his heirs, executors, or administrators, shall well and truly pay or cause to be paid to the said Eliza Jane Mitchell, party of the second part, her heirs, the just and full sum of $24,701.46, with legal interest from the date of these presents, on or before the period that the said Eliza Jane Mitchell shall arrive at the age of 21 years, or shall be legally married, or the said James H. Mitchell shall be called upon to make said payment in due course of law, which said sum of money the said James H. Mitchell owes to the said Eliza Jane Mitchell on his account as her guardian duly appointed, then these presents shall cease and determine and be null and void."

During the year 1842, Mrs. Mahon was married to P. R. Nicholls, her first husband, but the mortgage was not then paid, nor has it since been paid, neither principal nor interest.

In December, 1862, the Confederate general, Van Dorn, issued an order requiring all cotton near the Mississippi River to be removed to at least 10 miles from the

river; otherwise it should be burned, to prevent its capture by the United States forces. In compliance with this order, Mr. Mitchell removed the cotton to Kingston, near Natchez, where it was stacked and covered.

After the death of James H. Mitchell and after the cotton had been removed to Kingston, but before the capture of Natchez by the United States forces and before the passage of the abandoned or captured property act, a parol agreement was made between Mrs. Mitchell and Mrs. Mahon to the effect that the latter should take the cotton as a payment on the mortgage before described. The price was fixed at 20 cents per pound, but the number of pounds was not definitely ascertained, neither was any payment indorsed upon the mortgage, nor any receipt given, nor any memorandum in writing made, nor any present consideration paid. Neither did any change of possession take place, nor was there any delivery, actual or symbolic. The cotton remained at Kingston until its seizure by the military forces of the United States, immediately upon which Mrs. Mahon asserted that she was the owner and sought to procure its release. Mrs. Mitchell, the vender, had been guilty of giving aid and comfort to the rebellion.

After the capture of the cotton it was turned over to the Treasury agents and sold and the net proceeds are in the Treasury.

Eliza Jane Mahon brought a suit for the cotton in the Court of Claims, and after a full and fair hearing the case was decided against her. Among other things, the court decided that where a claimant in a suit under the abandoned or captured property act relies upon a purchase and sale to establish ownership, and the evidence shows that she paid no money for the captured property, relinquished no right, released no debt, assumed no responsibility, and acquired no possession, and that there was no written memorandum or receipt, and no ascertainment of the price to be paid, and no delivery, actual or symbolic, the facts do not establish a sale and delivery, so as to constitute her owner within the meaning of the act. The case as decided may be found in Vol. 6, page 331, Court of Claims Reports, where many of the facts recited in this report may be found.

An appeal was taken from the Court of Claims to the Supreme Court of the United States, and the judgment of the Court of Claims was affirmed.

The Supreme Court held that under article 4 of chapter 44 of the revised code of Mississippi, which reads, "That no contract for the sale of personal property, etc., shall be allowed to be good and valid except the buyer shall receive part of the personal property, or shall actually pay or secure the purchase money or part thereof, or unless some note or memorandum in writing of the bargain be made and signed by the party to be charged by such contract or his agent thereunto lawfully authoritzed." A parol agreement for the sale of cotton in payment of a mortgage debt can not be sustained where, though the price of the cotton per pound was fixed, the number of pounds was not definitely ascertained nor any payment indorsed on the mortgage, nor any receipt given, nor any memorandum in writing made, nor any present consideration paid, nor any change of possession effected, nor any delivery, either actual or symbolic, made. A final decision of this case against the title of Mrs. Mahon to maintain an action for the cotton was made in December, 1872, more than seven years since. Sophia G. Mitchell is the mother of Mrs. Mahon, and was a witness for her daughter in the action before the Court of Claims. It was admitted by the attorney of the claimant in the Court of Claims that there could not be any question that the cotton thus claimed was sold to or subscribed by Mrs. Mitchell to the Confederate Government. Such fact would render the cotton liable to seizure by the authorities of the United States, and she would not have any claim, legal or equitable, to the proceeds.

The bill provides for authority to Sophia G. Mitchell and Eliza Jane Mahon to bring suit for the cotton in the Court of Claims. There is nothing in the case to show that these parties are joint owners of the cotton or ever claimed a joint interest in the proceeds. The right of Eliza Jane Mahon has been finally determined in the case referred to, and it is very doubtful whether Congress has the power (if so disposed) to grant her a new trial. Sophia G. Mitchell, on the trial referred to, in order to aid her daughter, disclaimed all right and title to the cotton, and thereby debarred herself of the right to go into court again to assert a right in herself. Aside from these considerations there is no reason assigned why no further action was taken in this case from 1872, when a final decision was made, until the present application was made by bill for authority to bring another suit in the joint names of Sophia G. Mitchell and Eliza Jane Mahon. In addition to authority to bring a suit, Congress is asked to take the case from the operation of the bar of the statute of limitations.

It is believed there is not such merit in the case as to justify the legislation asked for; therefore the committee report the bill back to the House with a recommendation that the same do not pass.

DEPARTMENT OF JUSTICE,
Washington, March 15, 1880.

SIR: I have the honor to acknowledge your favor of March 12, instant, asking for information touching certain claims before your committee, a list of which was inclosed.

It will give me pleasure at all times to respond to such a request, as it is the desire of this Department to afford all the information in its power to Congress in such cases. I am unable, however, from the list of names furnished, to identify more than one case as having been at any time under consideration in this Department. If in the petitions or papers connected with the cases there is anything tending to show that others have been, I would be obliged to you for further information as to such cases.

The case identified is that of Mitchell and Mahon (H. R. 2586). A suit was seasonably brought in the Court of Claims by Eliza Jane Mahon and Richard H., her husband, for the proceeds of 116 bales of cotton, alleged to have been produced on the plantation of said Eliza Jane, in Adams County, Mississippi. It was tried, and the claimant was defeated on the question of title for reasons which are fully stated in the opinion of the court, reported in 6 Ct. of Cls., 331.

Sophia G. Mitchell was the mother of the claimant, and undertook, as the evidence showed, to sell or transfer the cotton to her. Her connection with the case sufficiently appears by the said opinion.

The court held that no title passed by the proceedings between the parties, which were somewhat involved, and are fully set forth in the facts found by the court. The case was appealed and the judgment affirmed in the Supreme Court (16 Wall., 143).

If there are any points unexplained in the said decisions on which information is desired, I will be glad to furnish it if in my power.

Very respectfully,

CHAS. DEVENS,
Attorney-General.

Hon. J. W. RYON, M. C.,
House of Representatives.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 653.

SARAH GRISSON.

MARCH 12, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 123.]

The Committee on War Claims, to whom were referred the bill (H. R. 5963) for the relief of Sarah Grisson, submit the following report:

Your committee is of opinion that this claim should be referred to the Court of Claims for a finding of facts, under the provisions of the act of March 3, 1887, and report herewith a resolution to that effect and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 654.

JOHN A. FIELD.

MARCH 12, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CLANCY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 124.]

The Committee on War Claims, to whom were referred the bill (H. R. 4701) for the relief of John A. Field, submit the following report:

Your committee is of opinion that this claim should be referred to the Court of Claims for a finding of facts under the provisions of the acts of March 3, 1883, and of March 3, 1887, and report herewith a resolution to that effect and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 655.

CHARLES A. DANOLDS.

MARCH 12, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CLANCY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1243.]

The Committee on War Claims, to whom was referred the bill (H. R. 1243) for the relief of Charles A. Danolds, submit the following report:

This measure was considered by this committee in the Fiftieth Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 1451, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2658) for the relief of Charles A. Danolds for the care and keeping of cavalry horses during the late rebellion, as provided by contract between said Danolds and the Quartermaster's Department of the United States, beg leave to report the same back to the House with the recommendation that it do pass.

This recommendation is based upon the following statement of facts, which are fully substantiated by the testimony filed with the committee by the claimant and corroborated by reports and evidence from the Quartermaster-General, received from the Secretary of War:

In the fall of 1863, the Government being in great need of horses for cavalry service, sent out from the Quartermaster's Department to purchase horses several officers, among others Capt. Charles E. Fuller, assistant quartermaster, U. S. Army, who was ordered to purchase horses in the State of New York, and he advertised to buy horses at the following places, namely: Albany, Rochester, and Buffalo, in said State.

He advertised in the Albany Daily Evening Journal, and in the Rochester Daily Democrat and American, as follows:

Cavalry horses wanted.

ASSISTANT QUARTERMASTER'S OFFICE,
Buffalo, N. Y., October 24, 1863.

Notice is hereby given that I shall be in Buffalo, N. Y., from the 1st to the 10th; Rochester, N. Y., from the 11th to the 20th; Albany, N. Y., the balance of every month, until further notice, to purchase cavalry horses for the United States in open market.

They must conform to the following regulations:

(1) No mares will be received.

(2) All horses must be from 15 to 16 hands high, five to nine years of age, compactly built, of dark colors, in good flesh, and free from all defects.

(3) All horses will be subjected to a rigid inspection by cavalry officers appointed

for that purpose by the Cavalry Bureau at Washington, D. C., and only those co plying with the above specifications will be received.

Parties having sound horses for sale are invited to present them to the above-nam places on the stated days.

Horses presented at Albany will be cared for and inspected at Harcourt's and W gant's stable, Nos. 22 and 24 Church street.

Capt. CHARLES E. FULLER,
Assistant Quartermaster, U. S. Army.

The claimant, in accordance with the above advertisement, purchased and presente to said Capt. Charles E. Fuller, at Rochester, N. Y., on the 11th day of November, 186 13 horses, which were inspected and accepted by him; also on the 21st of Novembe at the same place, he presented 61 horses that were inspected and accepted.

Capt. Fuller then made a verbal contract with Mr. Danolds to purchase all th horses he could deliver to him at Rochester on the 10th of December following, n exceeding 400, that would pass inspection, and he would take them and pay him $1 per head.

Capt. Fuller's affidavit and letter to the Quartermaster-General, filed with th papers furnished the committee by the Secretary of War, fully admits the contrac

Under this verbal contract Mr. Danolds employed experienced assistants, and du ing the next twenty days purchased 300 horses and had them in Rochester and on th line of the railroad ready for delivery in Rochester on the 10th of December, 1863, agreed upon with Capt. Fuller.

On the evening of the 9th of December, while at Buffalo, Capt. Fuller received telegraphic order from Gen. Stoneman, Chief of the Cavalry Bureau at Washingto to stop the purchase and taking of cavalry horses, and therefore Capt. Fuller did n go to Rochester on the 10th of December in accordance with his agreement with M Danolds and his printed advertisement; neither did he give any official notice to sa Danolds that the purchase of cavalry horses was closed.

Capt. Fuller, in his testimony, says:

"At the time he made the agreement with the said Charles A. Danolds for all th horses he would deliver in the said city of Rochester on the 10th day of Decembe 1863, subject to inspection, that the Government were calling for all the horses th could be purchased, and that he made the agreement in good faith on his part, a also, as he supposed, on the part of the Government, for said horses with said Da olds."

In a letter to the Quartermaster-General, dated March 8, 1867, Capt. Fuller state

"To get horses I was compelled to agree to give parties going about the count for them a reasonable notice of the time when I should stop buying, as they woul not be within reach of the mail or telegraph, until the days appointed by me to b at Buffalo, Rochester, and Albany; that if I had received my orders to stop buyin horses direct from the Quartermaster-General, I would have met my engagement as I felt they were made for the best interests of the Government, and that I was, i justice to the parties concerned, bound to keep them; that by failing to keep m advertised engagements it entailed loss on innocent parties."

It appears further in evidence that the claimant, finding that the quartermaste could not take the horses under his agreement, in consequence of the telegraphic ord from Gen. Stoneman, did, on or about the 25th of December, 1863, send his agen John W. Graves, at that time the United States internal-revenue assessor for th Twenty-eighth district of New York, to Washington, D. C., to confer with Ge Stoneman with reference to what could be done with the 300 horses purchased b claimant for delivery under the contract with Capt. C. E. Fuller, and Graves testifie that Gen. Stoneman told him to "say to Mr. Danolds that the Government could n take any more horses at that time, but that he (Danolds) must build stables o corrals to keep said horses in good condition until April or May, 1864, and then h would send the officers of the Government where the horses should be wintered, an take them and pay for them and for their keeping."

Under this further verbal agreement Mr. Danolds built stables and employed me to attend, feed, and care for these 300 horses during the months of December, 186 and January, February, March, and April, 1864, when on the 23d of April, 186 Capt. J. L. Trumbull, assistant quartermaster, U. S. Army, with Capt. J. P. Howel Sixth New York Cavalry, and Capt. Murgansy Hopkins, Eighth New York Cavalry inspecting officers, came to claimant's premises and inspected, accepted, and too away 193 head of these horses, and on the 6th of May following the same office came and inspected, accepted, and took away 81 horses more of the 300. They re jected 15 horses because they failed to winter in suitable condition to pass inspec tion, owing to colds and distempers taken during the winter, and 11 horses die some from unavoidable accidents and some from sickness.

It appears from the testimony that if the Government inspectors had inspected th 300 horses on the 10th of December, 1863, in accordance with the contract of Cap Fuller, they would all have been accepted, being at that time in good condition.

The claimant was paid for the 274 horses that were accepted in April and May, 1864, but not for the 15 horses rejected or the 11 horses that died, and has not been paid for keeping the 300 horses.

Claimant holds that, as the horses that died and those that were rejected were, on the 10th of December, 1863, equally as good as any of the rest, and that had they been inspected at that date would have been accepted, therefore the losses should be at the expense of the Government, and not at his expense, and holds that he was acting as the agent of the Government in feeding and caring for the 300 horses from December 10, 1863, to May 6, 1864, when the last horses were taken away; he, having taken every precaution and care for them, should not be held responsible for unavoidable losses.

The claimant presented his claim for the keeping of the 274 horses that were inspected and accepted, amounting to $28,326.50, to the Quartermaster-General for payment, but he decided that as the expense was incurred on an alleged breach of contract it could not be allowed by his Department under the act July 4, 1864, neither by the accounting officers of the Treasury, and that claimant's relief could only be granted by Congress or the Court of Claims.

The claimant presented his claim for the keeping of the horses and the further claim for losses sustained by the death and rejection of the 26 horses, amounting to $32,239.25, to the Court of Claims at the December term, 1868, and furnished abundant testimony substantiating the justice and equity of his claim, proving by Capt. Fuller the agreement to take all the horses he could have in Rochester on the 10th of December, 1863, not exceeding 400, that would pass inspection.

He proved that he had 300 on that day ready for inspection, and further that the Government officers failed to appear at Rochester on said 10th day of December, 1863, and inspect them.

He further filed testimony that Gen. Stoneman instructed claimant to winter the horses, and in April or May, 1864, the Government would send officers to inspect them and take them away and pay for them and for their keeping.

Claimant further proved the careful manner in which the horses were kept, and not knowing what day the Government might call for them, gave them especial attention; and it was further shown in evidence that the Government officers came in accordance with the agreement of Gen. Stoneman and took 274 of them away, thus completing to that extent the contract of Capt. Fuller.

But the court dismissed the case February 27, 1871, on the technical ground that the United States officers exceeded their authority and, therefore, the Government could not be legally held to pay the expense.

The claimant has, therefore, presented his claim to Congress for relief, and your committee, having examined the proofs and evidence filed, believe the claim to be a just and equitable one and that the Government officers acted in good faith, and that, therefore, the Government should not take advantage of a slight legal technicality and compel the claimant to suffer so great loss and damage which was honestly incurred on his part, believing the United States officers had the authority to do what they did.

Your committee therefore recommend the passage of the bill without amendment.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 656.

BARNETT T. SWART.

MARCH 12, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CLANCY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1715.]

The Committee on War Claims, to whom was referred the bill (H. R. 1715) for the relief of Sarah A. Swart, executrix of Barnett T. Swart, deceased, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

House Mis. Doc. No. 74, Fifty-first Congress, second session.

Letter from the Assistant Clerk of the Court of Claims, transmitting the find ings filed by the court in the case of Barnett T. Swart against the Unite States.

DECEMBER 22, 1890.—Referred to the Committee on War Claims.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 20, 1890.

SIR: Pursuant to the order of the court, I transmit herewith a cer tified copy of the findings filed by the court in the aforesaid cause which case was referred to this court by the Committee on War Claim House of Representatives, under the act of March 3, 1883.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. THOS. B. REED,
Speaker of the House of Representatives.

[Court of Claims. Congressional No. 756. Barnett T. Swart vs. The United States.]

This case being a claim for supplies or stores alleged to have bee taken by or furnished to the military forces of the United States fo their use during the late war for the suppression of the rebellion, th court, on a preliminary inquiry, finds that Barnett T. Swart, the perso alleged to have furnished such supplies or stores, or from whom th same are alleged to have been taken, was loyal to the Government o the United States throughout said war.

Filed March 12, 1888.

[Court of Claims. Congressional case No. 756. Barnett T. Swart vs. The United States.]

At a Court of Claims held in the city of Washington on the 15th day of Decembe 1890, the court filed the following statement of case and findings of fact, to-wit:

STATEMENT OF CASE.

The claim in the above entitled case for supplies or stores alleged to have bee taken by or furnished to the military forces of the United States for their use durin the late war for the suppression of the rebellion, was transmitted to the court b the Committee on War Claims of the House of Representatives on the 23d day o April, 1886.

Robert Christy, esq., appeared for claimant, and the Attorney General, by R. V

Dewees, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry the court, on the 12th day of March, 1888, found that the person alleged to have furnished the supplies or stores, or from whom they were alleged to have been taken, was loyal to the Government of the United States throughout said war.

The case was brought to a hearing on its merits on the 9th day of December, 1890. The claimant in his petition makes the following allegations:

1. That he is a citizen of the United States residing in the District of Columbia, and that he did not, in the late war for the suppression of the rebellion, give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States.

2. That he is and was during the times the grievances hereinafter particularly mentioned were committed the owner of a farm containing about 200 acres of land, situated within said District of Columbia; that in the month of September, A. D. 1861, the War Department of the United States took possession of said farm, and commenced the erection of Fort De Russey and batteries Smead and Kingsbury, together with a line of rifle pits connecting said fort and batteries one with the other, and extending nearly across the entire front of said farm; that at least 27 acres were so occupied.

That in addition to said 27 acres the engineer department of said defendant entered upon said farm and took possession of and occupied 56 acres of woodland belonging to claimant and forming a part of said farm. That said engineer department, acting for and in behalf of said defendant, cut down the valuable timber on said woodland and used it in constructing said forts and batteries and for fuel.

That said defendant by its officers and soldiers and agents, in addition to said 27 and 56 acres, took possession of all the remainder of said farm at the time aforesaid, consisting of plowed land, meadows, and orchards, except about 2 acres, upon which the dwelling house and other farm buildings were situated.

3. That said land at the time said defendant occupied the same was reasonably worth in the markets of the District of Columbia $200 per acre.

4. That said farm was composed of 26 acres of timber, 30 acres of meadow land, 53 acres of plowed land, and 10 acres of peach and apple trees.

5. That said defendant occupied said land as hereinbefore stated from the 1st day of September, A. D. 1861, to the 1st day of September, A. D. 1865; that during all this time claimant had no beneficial use of and derived no benefit from said farm with the exception of said 2 acres. That the said defendant, during the time of such occupation, appropriated to its use and destroyed 300 peach trees and 50 apple trees; took 70 cords of timber for fortifications and other building purposes, and 1,540 cords of fire-wood, and likewise 1,900 panels of fencing, 1,400 6-mule wagon loads of paving stones, 350 bushels of wheat stacked in the fields, and 37 acres of corn, averaging 8 barrels to the acre.

6. Claimant further states that the quantities and reasonable prices and values are correctly stated in his particulars of demand hereto attached as a part of this petition and marked Exhibit A.

That this claim was presented to the House of Representatives of the United States and duly referred to the Committee on War Claims, and by said committee transmitted to this honorable court on the 23d day of April, A. D. 1866, and claimant begs leave to refer to the same as often as it may be necessary.

7. That there has been paid to claimant as rent by the said defendant on, to wit, September, A. D. 1868, the sum of $3,156 in respect to said claim. That no other payment has been made thereon, and that there is now due to him and unpaid the sum of $28,163.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I.

That the claimant was the owner of a farm in the District of Columbia, containing about 200 acres of land; that in the month of September, 1861, the military forces of the United States took possession of said farm, with the exception of the dwelling house thereon and 2 acres of ground surrounding the same; that said possession continued for the period of four years, to wit, until September, 1865; and that claimant had no beneficial use of said farm during such possession by the defendant, with the exception aforesaid.

That the engineer department of the Army of the United States, acting on behalf of said defendant, in the month of September, 1861, began the erection on said farm of forts, batteries, and earthworks, and the construction of rifle-pits, and completed the same and maintained them during such possession.

II.

Most of said farm was occupied by the Quartermaster-General's Department, f which the claimant has already been paid rent in the sum of $3,156 in full.

Twenty-seven acres were occupied by the engineer department, the rental value which is $972. This latter sum has never been paid.

III.

During said occupancy a large amount of timber, from the woodland of the far was cut down and used by the Army, partly for engineering purposes and partly f fuel.

The value of this timber standing in the tree amounts to $5,040. It does not appe that any part of this sum has been paid.

IV.

The number and value of fruit trees, alleged in the claimant's petition to have be destroyed, have not been considered by the court, for the reason that under the fir clause of section 3 of the Bowman Act the court has no jurisdiction of such claim

V.

The claims for fencing consumed as fuel, stone, wheat, and corn were not present to the Quartermaster-General nor to Southern Claims Commission, and therefore, March 3, 1883, the date of the passage of the Bowman Act, were barred by the ac of March 3, 1873, section 3 (17 Stat., 577) and of March 3, 1879, section 3 (20 Stat., 650

The court has not considered these claims because the last clause of section 3 the Bowman Act provides that the court shall not have jurisdiction of any claim th barred by virtue of the provisions of any law of the United States.

BY THE COURT.

Filed December 15, 1890.
A true copy.
Test, this 20th day of December, A. D. 1890.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

House Report No. 3381, Fifty-first Congress, second session.

Mr. THOMAS, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 12966.]

The Committee on War Claims, to whom was referred the claim of Barnett T. Swart, report as follows:

That the Committee on War Claims of the Forty-ninth Congress, not being fully and clearly advised of all the facts in the case, referred it to the Court of Claims for a finding of the facts under the provisions of the Bowman act. Said claim has been returned by said Court of Claims with the following findings of fact:

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 20, 1890.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. THOMAS B. REED,
Speaker of the House of Representatives.

[Court of Claims. Congressional No. 756. Barnett T. Swart vs. The United States.]

This case being a claim for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, the court, on a preliminary inquiry, finds that Barnett T. Swart, the person alleged to have furnished such supplies or stores, or from whom the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

Filed March 12, 1888.

[Court of Claims. Congressional case No. 756. Barnett T. Swart vs. The United States.]

At a Court of Claims held in the city of Washington on the 15th day of December, 1890, the court filed the following statement of case and findings of fact, to wit:

STATEMENT OF CASE.

The claim in the above-entitled case, for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, was transmitted to the court by

the Committee on War Claims of the House of Representatives on the 23d day of April, 1886.

Robert Christy, esq., appeared for claimant, and the Attorney-General, by F. P. Dewees, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry the court, on the 12th day of March, 1888, found that the person alleged to have furnished the supplies or stores, or from whom they were alleged to have been taken, was loyal to the Government of the United States throughout said war.

The case was brought to a hearing on its merits on the 9th day of December, 1890. The claimant in his petition makes the following allegations:

1. That he is a citizen of the United States residing in the District of Columbia, and that he did not, in the late war for the suppression of the rebellion, give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States.

2. That he is and was during the times the grievances hereinafter particularly mentioned were committed the owner of a farm containing about 200 acres of land, situated within said District of Columbia; that in the month of September, A. D. 1861, the War Department of the United States took possession of said farm, and commenced the erection of Fort De Russey and batteries Smead and Kingsbury, together with a line of rifle pits connecting said fort and batteries one with the other, and extending nearly across the entire front of said farm; that at least 27 acres were so occupied.

That in addition to said 27 acres the engineer department of said defendant entered upon said farm and took possession of and occupied 56 acres of woodland belonging to claimant and forming a part of said farm. That said engineer department, acting for and in behalf of said defendant, cut down the valuable timber on said woodland and used it in constructing said forts and batteries and for fuel.

That said defendant by its officers and soldiers and agents, in addition to said 27 and 56 acres, took possession of all the remainder of said farm at the time aforesaid, consisting of plowed land, meadows, and orchards, except about 2 acres, upon which the dwelling house and other farm buildings were situated.

3. That said land at the time said defendant occupied the same was reasonably worth in the market of the District of Columbia $200 per acre.

4. That said farm was composed of 26 acres of timber, 30 acres of meadow land, 53 acres of plowed land, and 10 acres of peach and apple trees.

5. That said defendant occupied said land as hereinbefore stated from the 1st day of September, A. D. 1861, to the 1st day of September, A. D. 1865; that during all this time claimant had no beneficial use of and derived no benefit from said farm with the exception of said 2 acres. That the said defendant during the time of such occupation, appropriated to its use and destroyed 300 peach trees and 50 apple trees; took 70 cords of timber for fortifications and other building purposes, and 1,540 cords of fire-wood, and likewise 1,900 panels of fencing, 1,400 6-mule wagon loads of paving stones, 350 bushels of wheat stacked in the fields, and 37 acres of corn, averaging 8 barrels to the acre.

6. Claimant further states that the quantities and reasonable prices and values are correctly stated in his particulars of demand hereto attached as a part of this petition and marked Exhibit A.

That this claim was presented to the House of Representatives of the United States and duly referred to the Committee on War Claims, and by said committee transmitted to this honorable court on the 23d day of April, A. D. 1866, and claimant begs leave to refer to the same as often as it may be necessary.

7. That there has been paid to claimant as rent by the said defendant on, to wit, September, A. D. 1868, the sum of $3,156 in respect to said claim. That no other payment has been made thereon, and that there is now due to him and unpaid the sum of $28,163.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I.

That the claimant was the owner of a farm in the District of Columbia, containing about 200 acres of land; that in the month of September, 1861, the military forces of the United States took possession of said farm, with the exception of the dwelling house thereon and 2 acres of ground surrounding the same; that said possession continued for the period of four years, to wit, until September, 1865; and that claimant had no beneficial use of said farm during such possession by the defendant, with the exception aforesaid.

That the engineer department of the Army of the United States, acting on behalf of said defendant, in the month of September, 1861, began the erection on said farm of forts, batteries, and earthworks, and the construction of rifle-pits, and completed the same and maintained them during such possession.

Most of said farm was occupied by the Quartermaster-General's Department, for which the claimant has already been paid rent in the sum of $3,156 in full.

Twenty-seven acres were occupied by the engineer department, the rental value of which is $972. This latter sum has never been paid.

III.

During said occupancy a large amount of timber, from the woodland of the farm, was cut down and used by the Army, partly for engineering purposes and partly for fuel.

The value of this timber standing in the tree amounts to $5,041. It does not appear that any part of this sum has been paid.

IV.

The number and value of fruit trees, alleged in the claimant's petition to have been destroyed, have not been considered by the court, for the reason that under the first clause of section 3 of the Bowman Act the court has no jurisdiction of such claims.

V.

The claims for fencing consumed as fuel, stone, wheat, and corn were not presented to the Quartermaster-General nor to Southern Claims Commission, and therefore, on March 3, 1883, the date of the passage of the Bowman Act, were barred by the acts of March 3, 1873, section 3 (17 Stat., 577), and of March 3, 1879, section 3 (20 Stat., 650).

The court has not considered these claims because the last clause of section 3 of the Bowman Act provides that the court shall not have jurisdiction of any claim then barred by virtue of the provisions of any law of the United States.

BY THE COURT.

Filed December 15, 1890.
A true copy.
Test, this 20th day of December, A. D., 1890.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Your committee therefore recommend the payment of the amount found to be due by said court, and report herewith a bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 657.

ELVY BREWER AND OTHERS.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc 126.]

The Committee on War Claims, to whom was referred the bills (H. R. 3383, 3377, 3382, 6168, 6164, and 3829) for the relief of Elvy Brewer, Charles Labell, A. C. Kerr, Mrs. E. L. Traweek, James A. Mitchell, and Henry W. Long, have had the same under consideration and beg leave to report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and report herewith a resolution to that effect, and recommend its adoption.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 658.

JAMES LAFFERTY AND OTHERS.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 127.]

The Committee on War Claims, to whom was referred the bills (H. R. 807, 6841, 4662, 1042, 2882, 2881, and 4306) for the relief of James Lafferty, Abner D. Lewis, Thomas Wallace, the estate of Richard Higgin, J. J. Govan, Martha Ann Sanford, and William Crow, have had the same under consideration, and beg leave to report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and report herewith a resolution to that effect, and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 659.

J. W. SIMMONS AND OTHERS.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 128.]

The Committee on War Claims, to whom was referred the bills (H. R. 3290, 1846, 1850, 3293, 3289, 1839, and 3292) for the relief of J. W. Simmons, Joseph A. Hill, Julia Holbrook, Julius Walker, the estate of George W. Reeves, M. A. Booth, and John D. Scott, have had the same under consideration and beg leave to report as follows:

Your committee are of the opinion that these claimsshould be referred to the Court of Claims for findings of fact, and report herewith a resolution to that effect, and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 660

JOEL CROSS AND OTHERS.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 129.]

The Committee on War Claims, to whom was referred the bills (H. R. 2957, 5318, 4490, 7037, 5581) for the relief of Joel Cross, Mary A. Bell, St. Phillip's Church, of Atlanta, Ga., the estate of Martin Fraliex and Eli Frasuer, have had the same under consideration, and beg leave to report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for findings of fact, and report herewith a resolution to that effect and recommend its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPOR No. 66

MRS. W. DALLAS HAYWOOD AND OTHERS.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered t be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, sub mitted the following

REPORT:

[To accompany Mis. Doc. 130.]

The Committee on War Claims, to whom were referred the bills (H R. 2831, 2830, 4967, 3540, 5032, 5033, 4079, 5823, and 6785) for the reli of Mrs. W. Dallas Haywood, Thomas R. Debnam, Henry C. Nixon, G. Holt, administrator of Wiley Holt, E. W. Pelletor, Zaddock Meado John C. McNeill, Vasti Smith, and Elizabeth Flowers and Sarah Bridges, have had the same under consideration, and beg leave to r port as follows:

Your committee are of the opinion that these claims should be r ferred to the Court of Claims for findings of fact, and report herewi a resolution to that effect and recommend its adoption.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 662.

JAMES MILLER.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 811.]

The Committee on War Claims, to whom was referred the bill (H. R. 811) for the relief of James Miller, submit the following report:

This measure was considered by this committee in the Forty-fifth Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[House Report No. 68, Forty-fifth Congress, third session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2037) for the relief of James Miller, having had the same under consideration, beg leave to submit the following report:

The bill asks an appropriation of $1,570 for the relief of James Miller, to pay him for commissary and quartermaster supplies taken from him and used by a part of the Army of the United States during the late war between the States.

The petitioner claims, and the proof shows, that in July and August, 1862, J. W. Campbell, a quartermaster in the Seventh Kentucky Cavalry, took from said James Miller, of Bourbon County, Ky., 1,680 bushels of corn, valued at 40 cents per bushel, $672; 8,400 pounds of hay, at 75 cents per hundredweight, $630; 40 cords of wood, at $2.50 per cord, $100; 420 bushels of oats, at 40 cents per bushel, $168; making an aggregate claim of $1,570; that said Campbell, quartermaster as aforesaid, gave said James Miller a receipt therefor; that said Miller gave the receipt to a gentleman by the name of Hillock, to be presented to Col. Metcalf, of said Seventh Regiment, for his approval; that said Hillock in some way lost the said receipt, which has never been found, was never presented for payment, and has never been paid.

The proof further shows that said James Miller filed his claim in the Quartermaster's Department, but was refused payment thereof by reason of the fact that the Quartermaster-General was unable to certify that he was convinced of the loyalty of the claimant, as required by the act of July 4, 1864, section 300.

It is proper to state that several persons, under oath, certified in due form of law, swear very fully and positively to the loyalty of said Miller before, during, and since the late war, which, while *ex parte*, makes a prima facie case of loyalty at least; while, on the other hand, the question of his disloyalty rests wholly upon the naked, unsworn statement of one of the special agents of the Quartermaster's Department, that several gentlemen say "Miller was disloyal beyond all doubt," etc. These several gentlemen were not sworn—made simply and only unsworn statements, which were reported to the Quartermaster-General in an unsworn statement.

By the rules of the Quartermaster's Department such statements are treated as co
petent and proper testimony. But your committee submit that in any court of j
tice, as well as before a committee of Congress, such statements can not be tak
and held as competent testimony. The most that the statement of said special age
can do in this case, and all the weight it should have, is, that it amounts to a su
gestion of disloyalty. With sworn testimony in favor of loyalty, and only a suggesti
against it, your committee, in the light of law and fact, are compelled to decide
favor of the loyalty of James Miller, and do therefore determine that he is loyal.

Your committee, therefore, reach the conclusion that James Miller is entitled
relief, and therefore report the accompanying bill as a substitute, and recomme
its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 663.

CHARLES T. RUSSELL.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PAGE, of Rhode Island, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 3716.]

The Committee on Claims, to whom was referred the bill (H. R. 3716) for the relief of Charles T. Russell, late United States consul at Liverpool, having considered the same, respectfully report:

From the evidence furnished the committee by the Department of State, it appears that the said Charles T. Russell, while consul at Liverpool, from 1885 to 1889, inclusive, and while in the discharge of the duties of that office, expended for the clerical force necessarily employed by him in the shipment and discharge of American seamen at the port of Liverpool the sum of $3,100. Congress had prior to the year 1886 provided a fund which the State Department had drawn upon to the amount of about $2,100 annually, to defray the expenses incurred at the consulate in the shipment and discharge of American seamen, but which it had omitted to provide subsequent to the year 1885.

Mr. Russell was obliged to disburse from his own funds the above-named sum to meet the expenses of this service, as appears by the vouchers hereto annexed.

The consul preceding Mr. Russell at Liverpool called the attention of the State Department to the omission by Congress to provide the funds to meet these expenses, and urged the necessity of continuing said appropriation to his successor. The State Department, recognizing the justice of Mr. Russell's claim, advised him to apply to Congress for reimbursement, as that Department had no authority to use any of its funds for the payment of these expenditures.

Your committee find that the amount named in the accompanying bill was actually and necessarily expended by Mr. Russell, and was less than the usual amount expended by his predecessors for such service; that no part thereof has been repaid to him, and that in justice and equity he is entitled to have the same refunded to him by the Government, and recommend the passage of the accompanying bill.

The annexed correspondence is made a part of this report.

UNITED STATES CONSULATE,
Liverpool, June 6, 1885.

SIR: I have to invite the attention of the Department to the omission of Congress *to appropriate specifically* as heretofore for the expenses attending the shipment and *discharge of seamen* at this and other consulates.

While personally I have no interest in the Department's action on account of retirement from consular duties, nevertheless the appropriations for the next fis year will be available, and the urgent needs of the consulate warrant me in reque ing, in behalf of my successor, an allowance from the item of $6,000, appropria by Congress, the expenditure of which is placed at the discretion of the Preside for the several consulates and commercial agencies in the transaction of their bu ness.

The sum, from my experience and observation, having in view the proportion amount of work attending the shipping office at this and other seaport consulat which I think should be awarded this consulate is $2,000.

In support of the claim for the above-named sum I beg to invite the attention the Department to my dispatch No. 238, dated June 19, 1883, in which will be fou more in detail the facts touching the requirements existing now as then, which ne not be repeated in this dispatch.

I shall therefore venture to suggest that the Department at an early day authori the expenditure of the sum named to defray the expenses of the shipment and d charge of seamen at this consulate for the fiscal year ending June 30, 1888.

I have the honor to be, respectfully, your obedient servant,

STEPHEN B. PACKARD,
Consul.

Hon. JAMES D. PORTER,
Assistant Secretary of State.

UNITED STATES CONSULATE,
Liverpool, November 8, 1889.

Hon. WILLIAM F. WHARTON,
Assistant Secretary of State, Washington, D. C.

SIR: I desire to bring to the notice of the Department of State, with a view having the matter brought before Congress at its next sitting, the very heavy penditure I have been reluctantly obliged to make, during the four years I was co sul, in order to carry on efficiently the work in connection with the shipping depa ment of the consulate, the total amounting to £600 10*s.* 6*d.*

When I arrived at my post in June, 1885, I found that in addition to the allowa of $2,000 per annum for clerk hire, there was an allowance of $2,100 per annum for shipment and discharge of seamen, but that after the end of that month it would discontinued altogether, Congress having made no appropriation.

This matter was brought before the notice of the State Department by my pre cessor in his dispatch No. 319, dated June 6, 1885, and also by myself in my Nos. and 91, dated February 1 and December 1, 1886, and I was finally informed tha could not receive any assistance from the Government in that direction, but that subject would be brought to the notice of Congress—Department instruction 91, dated January 19, 1887:

No appropriation, however, was made for that department of the consulate d ing the whole four years that I was in charge, but the work had to be discharg It is hardly necessary, I think, for me to say that the work in connection with shipment and discharge of seamen at a port of such magnitude as Liverpool is v great, and although it was performed with as small a clerical force as possible it actually cost me the sum of £600 10*s.* 6*d.*, which I paid in addition to the ann allowance for clerk hire.

Seeing therefore that the expenditure is absolutely necessary for clerical work connection with the shipment and discharge of seamen, I am convinced that if th facts are brought before Congress I will be reimbursed this heavy outlay.

I therefore respectfully claim that the sum stated is due me, and, I do so feeli that I am making a just and honorable claim, and one that can not but recomme itself to the consideration of Congress.

Some of the clerks to whom I paid this amount are no longer connected with office, but I have no doubt I can procure from them a proper voucher for the amou each of them received, but those who remain can certify to this expenditure.

I am, sir, your obedient servant,

CHAS. T. RUSSELL,
Late Consul.

LIVERPOOL, *January 10, 1890.*

I, William J. Saulis, vice and deputy consul of the United States of America Liverpool, do hereby certify that I was, during the period Mr. Russell was con here, bookkeeper, and as such had the paying of salaries to the clerks of the co sulate. That during the period from July 1, 1885, to June 30, 1889, I paid the sum £600 10*s.* 6*d.* for clerical services performed in connection with the shipping depa ment of the consulate in excess of the amount of clerk hire allowed during that

riod, the said expenditure having been actually and necessarily made, as appears by the books kept by me and now in Mr. Russell's possession.

[SEAL.] W. J. SAULIS,
Vice and Deputy Consul of the United States of America at Liverpool.

I, William Pierce, do hereby make oath and say that during the period 1st July, 1885 to 30th June, 1889, I was employed as clerk in the consulate at Liverpool. From my own knowledge I am aware and know that the sum of £600 10*s.* 6*d.* was actually paid by Mr. Russell in excess of the amount allowed for clerk hire during that period. Part of said amount was paid to myself and the remaining portion to clerks who are not now here.

WM. PIERCE.

Subscribed and sworn to before me this 10th day of January, 1890.

[SEAL.] THOS. H. SHERMAN,
Consul of the United States of America at Liverpool.

UNITED STATES CONSULATE, 26 CHAPEL STREET,
Liverpool, January 11, 1890.

The statements herewith of the vice-consul and Mr. Pierce are entitled to full faith and credit, but I desire to add that I am convinced that the disbursements referred to were actually made and were actually necessary. I am not now paying so much for extra clerks as Mr. Russell paid, because the Department has sent to the consulate a competent consular clerk, but it will be apparent to any one who visits this office that additional allowance for clerk hire is needed.

THOS. H. SHERMAN,
Consul.

DEPARTMENT OF STATE,
Washington, February 21, 1890.

CHARLES T. RUSSELL, Esq.,
Late Consul of the United States, Liverpool,
Now at 50 Lime Street, London, England.

SIR: Referring to your dispatch of the 22d ultimo, I have to inform you that the Department has no funds out of which it has authority to render such relief as is required by your dispatch.

Your only recourse would seem to be to present your claim for reimbursement of the amount expended for clerk hire to Congress.

I am, sir, your obedient servant,

WILLIAM F. WHARTON,
Assistant Secretary.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 664.

ESTATE OF HORACE CAPRON.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PAGE, of Rhode Island, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 5242.]

The Committee on Claims, to whom was referred the bill (H. R. 5242) for the relief of the estate of Horace Capron, having had the same under consideration, do recommend the passage of the bill for the reasons stated, as follows:

It appears from the statement and evidence before the committee that Horace Capron, now deceased, was engaged, as Commissioner of Agriculture in the erection of the building for the Department of Agriculture during the quarter ending March 31, 1870, and at said date there was a balance due said Horace Capron from the United States as such Commissioner of $332, which sum has never been paid, and is still due the estate of said Horace Capron, as appears from a copy of record in the Treasury Department, First Auditor's Office, a copy of which, with the accompanying letter from the Comptroller of the Treasury is hereto annexed, and made a part of this report.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., February 15, 1892.

SIR: I have the honor to acknowledge the receipt, by reference from the Secretary of the Treasury, of your letter of 9th instant, inclosing a copy of H. R. bill No. 5242 for the relief of the estate of Horace Capron, and asking for a copy of the account showing what balance, if any, is due to him as former Commissioner of Agriculture, and also requesting such other information in relation thereto, as may seem proper.

I inclose herewith a copy of the last settlement made on the only account of Mr. Capron now standing open on the books of the Register. This shows a balance due from the United States to him of $332, the amount named in the bill.

The balance is the sum of payments made by the Commissioner, and approved by the accounting officers, in excess of the appropriation made for the erection of a building for the Department of Agriculture.

On June 8, 1871, about a year after the date of the settlement referred to, Mr. Capron deposited the exact sum of $332 to the credit of the appropriation. This amount was derived from the sale of old material, and of course did not go to his personal credit, though, under the practice which then obtained, it was covered in to the credit of the appropriation, and not as a miscellaneous receipt, as is now required by section 3618, Revised Statutes.

There was then available a balance to the credit of the appropriation which Mr. Capron could have drawn on requisition and thus reimbursed himself and closed this account. For some reason this was not done, and the balance of $332 standing to the credit of the appropriation was covered into the Treasury and carried to the surplus fund on June 30, 1872.

Respectfully yours,

A. C. MATTHEWS,
Comptroller.

Hon. B. H. BUNN,
Chairman Committee on Claims, House of Representatives.

No. 174052] TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
April 23, 1870.

I hereby certify that I have examined and adjusted an account between the United States and Horace Capron, Commissioner of Agriculture, "for erection Department of Agriculture," for the quarter ending March 31, 1870, and find him entitled to credit—

By balance of his account per Report No. 172995	$180.34
By amount of his disbursements, first quarter, March 31, 1870	151.66
	332.00

Balance due Commissioner, $332, as appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury thereon.

T. L. SMITH,
First Auditor.

The COMPTROLLER OF THE TREASURY.

COMPTROLLER'S OFFICE.

I admit and certify the above balance this 10th day of May, 1870.

R. W. TAYLER,
Comptroller.

The REGISTER OF THE TREASURY.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 665.

LEWIS McKENZIE.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PAGE, of Rhode Island, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1497.]

The Committee on Claims, to whom was referred the bill (H. R. 1497) for the relief of Lewis McKenzie, having had the same under consideration, do recommend the passage of the bill, for the reasons stated in the following report, which is hereby adopted and agreed to as a part of this report.

[House Report No. 4005, Fiftieth Congress, first session.]

The Committee on Claims, to whom was referred the petition of Hon. Lewis McKenzie to be reimbursed for expenses incurred by him in certain election contests, make the following report:

It appears from the statements and vouchers before this committee that the petitioner was elected to represent the Seventh Congressional district of Virginia in the Forty-first Congress, and that his right to the seat was contested by one Charles Whittlesey, and that after thorough investigation the House declared the petitioner elected and awarded him the seat.

Mr. Whittlesey was allowed by the same Congress $1,000 for his expenses in this contest, the petitioner filing no claim.

It further appears from proper testimony that the petitioner contested the election of the Hon. Elliott M. Braxton, in the same district of Virginia, to a seat in the Forty-seventh Congress, and that the investigation by the House gave the seat to Mr. Braxton, the petitioner, as in the former instance, filing no claim at the time for expenses incurred.

The petitioner appeared before the Forty-seventh Congress and presented to the House a petition asking for relief by reimbursement for the amount actually expended by him in the aforementioned contests. The petition was referred to the Committee on Claims, and there remained, without any action thereon by said committee.

The records of the Forty-eighth Congress show that on January 10, 1884, a petition was again introduced and referred to the Committee on Claims, where it again slumbered without any action thereon; and again in the Forty-ninth Congress (February 1, 1886), it was called up and so referred with similar results.

On February 10 (present session) it was reintroduced by the Hon. W. H. F. Lee, and referred to your present committee, who find that, after careful investigation, the petitioner has actually expended in the election contests above stated the sum of $2,098.95, and that he has never been paid anything on account of said contests.

In view of the foregoing recited facts, ample proof of which has been made by the petitioner, the committee are of the opinion that in accordance with the well-established rule of Congress in contested-election cases there is justly due the petitioner the sum of $2,098.95 to reimburse him for expenses to that amount actually incurred by him, and which has not hitherto been paid, and recommend that the bill do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 666.

WILLIAM F. WILSON.

MARCH 14, 1892.—Laid on the table and ordered to be printed.

Mr. PAGE, of Rhode Island, from the Committee on Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 5732.]

The Committee on Claims, to whom was referred the bill (H. R. 5732) to pay William F. Wilson the sum of $300, for services as head clerk in the Railway Postal Service, submit the following report:

Your committee have carefully considered the same, and are under the opinion that the United States should not be liable for said payment.

Your committee, therefore, recommend that this bill do not pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 667.

NATIONAL NEW HAVEN BANK, NEW HAVEN, CONN.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PAGE, of Rhode Island, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2481.]

The Committee on Claims, to whom was referred the bill (H. R. 2481) for the relief of the National New Haven Bank, of the State of Connecticut, have had the same under consideration, and beg leave to report:

John W. Griffiths entered into contract with the Navy Department to construct the U. S. sloop *Enterprise*, at the Kittery navy-yard, in 1875 or 1876, and was to have the use of the workshops, machinery, tools, etc., of the yard for that purpose. Before the vessel was fully completed the workshops were closed by order of the Navy Department, and said Griffiths was consequently delayed in his work, and his mechanics prevented from prosecuting their labors, and he was otherwise damaged by the stoppage of the workshops during the progress of the work on his contract for constructing said *Enterprise*. He made a claim on the Navy Department for such delay, damage, and wages paid his employés during such suspension of $12,500. The Chief of the Bureau of Construction and Repair appointed a board of constructors of the Navy to examine and consider this claim, with orders to report to the Bureau. The following is a copy of the report of said board:

NAVY DEPARTMENT, BUREAU OF CONSTRUCTION AND REPAIR,
February 27, 1877.

SIR: In obedience to your orders we have carefully considered the claim of John W. Griffiths for damages caused by the stoppage of the workshops at the Kittery navy-yard during the progress of the work on his contracts on the U. S. sloop *Enterprise*, and consider his claim of $12,500 excessive. There was no doubt detention and much inconvenience caused by such stoppage on the work, and we are of the opinion that $3,000 would be fair and ample compensation therefor. We also recommend the payment of the following claims for the pay of persons employed by Mr. Griffiths during the suspension of the workshops:

Engineer and fireman	$160.00
Blacksmiths and helpers	65.90
Foreman and shipwrights, fitting bilge keelsons	293.25
For detention as above	3,000.00
Total	3,519.15

Very respectfully, your obedient servants,

EDWARD HARTE, *Naval Constructor, U. S. N.*
R. W. STEELE, *Naval Constructor, U. S. N.*
J. FEASTER, *Assistant Naval Constructor, U. S. N.*

Chief Constructor I. HANSCOM, U. S. N.,
Chief of Bureau Construction and Repair, Washington, D. C.

The next day after the date of this report, February 28, 1877, the Navy Department, through the Bureau of Construction and Repair, issued the following final settlement certificate, in triplicate, to John W. Griffiths for the exact amount reported by said board:

The U. S. Navy Department, Bureau of Construction and Repair, to John W. Griffiths, Dr.

[Appropriation—"Construction and Repair," 1876-'77.]

In full settlement of his claim for damages sustained by reason of the closing of the workshops at the Kittery yard, while the U. S. steamship *Enterprise*, built by him under contract, was under construction; being full and final payment on that vessel and in full for all claims and demands under contract or for extras of whatever name or nature—as per report of board, dated February 27, 1877, on file in Bureau.....$3, 519.15
$3,519.15.]

NAVY DEPARTMENT, BUREAU OF CONSTRUCTION AND REPAIR,
Feb'y 28th, 1877.

Approved in triplicate for the sum of three thousand five hundred nineteen and $\frac{15}{100}$ dollars, payable by the paymaster at Washington.

I. HANSCOM,
Chief of the Bureau.

This full and final settlement certificate was made payable by the paymaster at Washington, and in the hands of Mr. Griffiths was an ascertained and absolute debt against the United States. Said Griffiths failing to realize his money from the paymaster, probably because the appropriation had been exhausted (reason immaterial), took the said certificate to New York and applied to P. W. Gallaudet, note broker, corner of Wall street and Broadway, for a loan on said certificate. Mr. Gallaudet, as agent for said Griffiths, called the attention of Wilber F. Day, president of the National New Haven Bank, of the State of Connecticut, to this certificate, and recommended it as good collateral security for a loan of $3,000, when indorsed by said Griffiths. Mr. Day came to New York and took the certificate to the Navy pay-office in that city, where he was told by Mr. Roach, chief clerk of said pay office, that the certificate was regular, the signatures genuine, and that it would be paid in proper time. Mr. Gallaudet told him he had had many similar certificates, and they were always paid.

After this, said John W. Griffiths, on or about the 9th day of January, 1878, made his certain promissory note in writing for $3,000, payable four months from date, and gave the same to said National New Haven Bank of the State of Connecticut, together with the said Navy certificate, indorsed by him, and blank receipts on the back signed by him, as collateral, and said note was duly discounted by said bank. At the maturity of said note the same was not paid, but was duly renewed at the request of the maker for three months longer, but said second note was not paid at maturity (the same being among the papers before your committee), and on or about the 27th day of November, 1878, at the city of New York, the said Griffiths being duly notified by mail, the said Navy certificate was duly advertised for sale at public auction, in accordance with the stipulation contained in said note, and being so sold was regularly purchased at such sale by said Wilber F. Day for said bank, as the highest bidder, for $3,100, and the said bank has been ever since, and is now, the lawful holder and owner of said Navy certificate. All these facts appear from evidence before this committee.

Your committee is satisfied from evidence received from the Navy Department that said Navy certificate has never been paid by that Department, and believing it to be a legal and equitable claim against the United States, report the accompanying bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 668.

MAJ. WILLIAM M. MAYNADIER.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PAGE, of Rhode Island, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 3583.]

The Committee on Claims, to whom was referred the bill (H. R. 3583) for the relief of Maj. William M. Maynadier, a paymaster in the U. S. Army, having considered the same and accompanying papers, report as follows:

Bills identically the same as the one now under consideration were favorably reported by six committees of Congress. The committee add, under Appendix A, a copy of the proceedings of a court of inquiry, which is a complete vindication of Maj. Maynadier from any charge of official neglect. It is approved by the department commander and the Paymaster-General of the Army. Appendix B gives a partial list and statement of precedents in which relief has been provided by acts of Congress in cases analogous to this.

The committee fully concur in the report of the Senate Committee on Military Affairs of the Fifty-first Congress (Report No. 19), and adopt the same, which is appended hereto as a part of this report, which is as follows:

Bills identically the same as the one under consideration were passed by the Senate during the Forty-seventh, Forty-eighth, Forty-ninth, and Fiftieth Congresses, but failed in the House through lack of time.

The committee find the facts as stated in Senate Report No. 9, Fiftieth Congress, first session, which said report is hereto annexed and made part of this report, and is as follows:

"That under date of January 17, 1882, your committee called on the Secretary of War for a copy of the proceedings of a board of officers convened at headquarters Department of Arizona, November 17, 1876, pursuant to Special Order No. 138, dated headquarters Department of Arizona, November 6, 1876, to examine and report upon the loss of the public funds for which Maj. William M. Maynadier, paymaster United States Army, is responsible, reported to have been stolen from his office safe by an absconding clerk; which record is now on file in the committee room of the Committee on Military Affairs of the United States Senate. Your committee find the facts to be as stated in the finding of the board, which said finding is hereto annexed and made part of this report, and is as follows:

"'In conclusion the board find that Major Maynadier was on duty by proper authority, as a paymaster at Prescott, Ariz.; that he was duly authorized and required to keep public money in a safe provided for the purpose, there being no depository available; that he did so keep public money, though not in excess of what the service at his station required; that the safe provided for him was a large fire and burglar proof one, manufactured by Johnathan Kitridge, of San Francisco, having two combination locks, the outer one being T. E. Burwell's and the inner one "Young's Rotary Combination;" that Major Maynadier never made known these combinations; that said safe appears to be a good and secure one; that the clerk, D. D. Chandler, was well recommended and apparently capable and trustworthy; that on March 31, 1876, Major Maynadier had in his safe what under a customarily careful count appeared to

be $4,081.11; but there should have been $4,228.46; that on Monday, April 3, 187
he found in his safe only $211.46, the balance, $4,017, having been stolen by Chandle
who afterwards returned $290.50, leaving the amount actually lost by Major Mayn
dier $3,726.50.

"'The following tabular statement will show more briefly the exact state of t
case:

Amount shown as on hand by statement of April 1, 1876	$4,081.
Amount received in March, 1876, but not reported until May (effects of deceased soldier)	147.
True amount for which Major Maynadier was responsible	4,228.
Amount found in safe after burglary	211.
Total amount stolen	4,017.
Amount returned by Chandler upon his arrest	290.
Amount actually lost	3,726.

"'Under instructions of the Paymaster-General, Major Maynadier has refunded t
amount lost, but so far as the board can ascertain it believes Major Maynadier exe
cised due care in the keeping of the public money intrusted to him, and therefore re
ommends that he be relieved from responsibility for the loss of the $3,726.50, a
that this amount, increased by the $100 paid by Major Maynadier for the arrest
Chandler, making a total of $3,826.50, be restored to Maj. W. M. Maynadier, pa
master, United States Army.

"'There being no further business before it, the board adjourned *sine die*.

"'RODNEY SMITH,
"'*Major and Paymaster, U. S. A., President.*
"C. A. REYNOLDS,
"'*Major and Quartermaster, U. S. A., Member.*

"'JOHN SIMPSON,
"'*Captain and Assistant Quartermaster, U. S. A., Recorder.*'

"The finding of the court of inquiry is approved by the commanding general D
partment of Arizona and the Paymaster-General of the Army.

"Upon these facts your committee believe that Maynadier is entitled to relie
Therefore Senate bill No. 503 is reported back, with recommendation that it pass."

The committee, therefore, adopt said Senate report as the report of this committe
and report the accompanying bill for his relief, with the recommendation that
pass.

APPENDIX A.

PROCEEDINGS OF A BOARD OF OFFICERS CONVENED AT HEADQUARTERS DEPARTME
OF ARIZONA, BY VIRTUE OF THE FOLLOWING ORDER:

[Special Orders, No. 188.—Extract.]

HEADQUARTERS DEPARTMENT OF ARIZONA,
Prescott, November 6th, 1876.

* * * * * * *

III. A board of officers, to consist of—
1. Major Rodney Smith, paymaster, U. S. A.,
2. Major Chas. A. Reynolds, quartermaster, U. S. A.,
3. Captain John Simpson, asst. quartermaster, U. S. A.,
is appointed to meet at these headquarters at 10 o'clock a. m. on Friday, Nov. 1
or as soon thereafter as practicable, to examine and report upon the circumstanc
attending the loss of public funds, for which Major W. M. Maynadier, paymaste
U. S. A., is accountable, reported to have been stolen from his office safe by an a
sconding clerk.

* * * * * * *

By command of Colonel Kautz, brevet major-general, U. S. A.

J. P. MARTIN,
Asst. Adj't General.

HEADQUARTERS DEPARTMENT OF ARIZONA,
Prescott, A. T., Nov. 17th, 1876.

The board met pursuant to the foregoing order.
Present, all the members.
There being no evidence before the board, on account of the absence of Major W. M. Maynadier, paymaster, U. S. Army, it adjourned to meet to-morrow, the 18th instant, at 10 o'clock a. m.

JOHN SIMPSON,
Capt. and Ass't Q'r M'r, U. S. Army.

HEADQUARTERS DEPARTMENT OF ARIZONA,
Prescott, A. T., Nov. 18th, 1876—10 o'clock a. m.

The board met pursuant to adjournment.
Present, all the members.
Major W. M. Maynadier, paymaster, U. S. A., being present, asked a delay of two days, in order that he might prepare a statement and get other documentary evidence in readiness to present to the board, and it therefore adjourned to meet at 10 o'clock a. m. on Monday, the 20th instant.

JOHN SIMPSON,
Capt. and A. Q. M., U. S. Army.

HEADQUARTERS DEPARTMENT OF ARIZONA,
Prescott, A. T., Nov. 20th, 1876—10 o'clock a. m.

The board met pursuant to adjournment.
Present, all the members.
A part of the documentary evidence wanted by the board had not yet been procured in as complete a form as desired, and the board therefore adjourned to meet at 11 o'clock a. m. on the 28th instant.

JOHN SIMPSON,
Capt, and A. Q. M., U. S. Army.

HEADQUARTERS DEPARTMENT OF ARIZONA,
Prescott, A. T., Nov. 28th, 1876—11 o'clock a. m.

The board met pursuant to adjournment.
Present, all the members.
After considering certain documentary evidence, all of which is appended hereto, the board adjourned to meet on Friday, December 1st, 1876, for a further consideration of the evidence, and to make up its report.

JOHN SIMPSON,
Capt. and Ass't Q'r M'r, U. S. Army.

HEADQUARTERS DEPT. OF ARIZONA,
Prescott, A. T., December 1, 1876.

The board met pursuant to adjournment.
Present, all the members.
The board proceeded to examine and consider the documentary and other evidence which it had been able to collect.
The statements of D. D. Chandler, the absconding clerk; that of William Wilkerson, clerk U. S. court third judicial district, Arizona; that of F. D. Parker, U. S. deputy marshal third district of Arizona; that of G. A. Ochus, Signal Service, U. S. A.; that of Major W. M. Maynadier, paymaster, U. S. A.; the receipt of the sheriff of San Bernardino County, Cal.; and the letter dated Paymaster-General's Office, Washington, D. C., August 30th, 1872, all of which are appended and made a part of these proceeddings, and marked A, B, C, D, E, F, and G, respectively, constitute the main features of evidence. Reference is also made to Major Maynadier's official statement of funds at the end of March, 1876, and marked H.
After due consideration the board finds that Major W. M. Maynadier, paymaster, U. S. Army, reported that he had four thousand and eighty-one dollars and eleven cents, in currency in his safe March 31st and April 1, 1876, which amount, he states, was verified by actual count. On going to his office on Monday morning, April 3d, 1876, he discovered that his safe had been tampered with, and all of this money, except two hundred and eleven dollars and forty-six cents (211.46) had been stolen. Immediately afterwards, upon learning that his clerk, D. D. Chandler, had left Prescott, he

charged the robbery to him, had him pursued, arrested, brought back to Prescott, and there imprisoned, having paid one hundred dollars ($100.00) of his funds to the sheriff of San Bernardino County, California, for making the arrest. While in charge of the civil authorities at Prescott Chandler freely acknowledged that he had committed the robbery [see his statement]. It is observed, though, that he did not state what amount he had stolen, but asserts that it was the amount found by Major Maynadier's accounts to be deficient.

He further states that access to the safe was gained by fraud, and that owing to faults in the lock he was able at any time to enter the safe, and this without knowing a single combination of the locks. The board is of the opinion that this statement is untrue. It believes the safe to be a secure one, and that Chandler must have discovered the combination of the lock either by secretly watching Major Maynadier when he opened it, or by actual experiment when he was out of the office. In evidence of this it transpired after the robbery that the telegraph operator, whose office was adjacent to Major Maynadier's, had heard noises late at night in the paymaster's office as of a person working at the safe. Chandler had been allowed to sleep in the office with the express purpose of keeping watch over the safe. On several occasions, when the telegraph operator heard these noises at suspicious hours of the night, he had called at the pay office and found Chandler there quietly reading: Chandler's explanation of the noises was, that his dog, which was with him, had been jumping about. It also transpired that Chandler had been reading on the subject of "safe locks" and accounts of burglaries.

Again, though most of the robbery probably took place between the night of the first of April and the morning of the second, it is believed, and Chandler's confession acknowledges, that some of the money had been taken before that time. In evidence of this the board find that Major Maynadier received on the 7th of March one hundred and forty-seven dollars and thirty-five cents ($147.35) as effects of a deceased soldier, but Chandler neglected to charge him with the amount in that month, and consequently the balance which Major Maynadier reports to have been on hand in safe March 31, 1876 ($4,081.11) is one hundred and forty-seven dollars and thirty-five ($147.35) short of the required amount. This one hundred and forty-seven dollars and thirty-five ($147.35) at least must have been taken before, else in counting his money at the end of the month Major Maynadier would have found that amount in excess.

Had Major Maynadier been charged with this one hundred and forty-seven dollars and thirty-five cents in March, his balance would have been four thousand two hundred and twenty-eight dollars and forty-six cents ($4,228.46), the true amount of currency for which he was responsible at the close of the month. Nor is it impossible that a greater amount had been stolen before the end of the month. It appears from the statement of Major Maynadier that in verifying the amount of cash in his safe he did not always count, and perhaps did not on this occasion count, the money in each and every package. He generally counted only the loose money and broken packages in his till, and estimated the original packages by the figures marked on their wrappers. These packages had been carefully counted when deposited in the safe, and had not been disturbed thereafter by him. Chandler, being aware of this, and having secret access to the safe, could, and possibly did, in the latter part of March, abstract some small sums from these original packages. If he did so, and if Major Maynadier had actually counted all the money in his safe, the original packages as well as the loose money, finding his money deficient, he would have been thrown upon his guard, and might sooner have detected Chandler, and perhaps have prevented a part of the robbery. But the board attaches no blame to Major Maynadier for this, since he seems to have done all that common prudence and the customs among business men required. Chandler had been highly recommended by two experienced paymasters in whose employ he had been, and during the year that he served with Major Maynadier he was considered honest and capable.

Again, the safe was one which had been specially selected by proper authority for the paymaster's use, and was believed to be perfectly secure. Major Maynadier had never made known to any person the combination of the locks. Having confidence in his clerk and in the security of his safe, it was natural that he should take the unbroken and original packages by the figures on the wrappers, actually counting only the loose money and broken packages.

The board further finds that, although Major Maynadier promptly reported the robbery of his safe at his station, and immediately borrowed and replaced the amount stolen, he did not, until a month afterwards, report it to the Paymaster-General. This latter was not done until after he had written to his bondsmen and been advised by them to report it. In this duty he was influenced by an apprehension that if the robbery were then made known in Washington it might prejudice, and possibly defeat, the chances for the confirmation of his appointment as paymaster, then pending before the Senate.

In conclusion, the board find that Major Maynadier was on duty by proper authority as paymaster at Prescott, Ariz.; that he was duly authorized and required to

keep public money in a safe provided for the purpose, there being no depository available; that he did so keep public money, though not in excess of what the service at his station required; that the safe provided for him was a large fire and burglar proof one, manufactured by Jonathan Kitridge, of San Francisco, having two combination locks, the outer one having T. E. Burwell's and the inner one "Young's Rotary combination;" that Major Maynadier never made known these combinations; that said safe appeared to be a good and secure one; that the clerk, D. D. Chandler, was well recommended, and apparently capable and trustworthy; that on March 31st, 1876, Major Maynadier had in his safe what under a customarily careful count appeared to be four thousand and eighty-one dollars and eleven cents ($4,081.11), but there should have been four thousand two hundred and twenty-eight dollars and forty-six cents ($4,228.46); that on Monday, April 3d, 1876, he found in his safe only two hundred and eleven dollars and forty-six cents ($211.46), the balance, four thousand and seventeen dollars ($4,017.00), having been stolen by Chandler, who afterwards returned two hundred and ninety dollars and fifty cents, leaving the amount actually lost by Major Maynadier three thousand seven hundred and twenty-six dollars and fifty cents ($3,726.50).

The following tabular statement will show more briefly the exact state of the case:

Amount shown as on hand by statement of April 1, 1876	$4,081.11
Amount received in March, 1876, but not reported until May (effects of deceased soldier)	147.35
True amount for which Major Maynadier was responsible	4,228.46
Amount found in safe after burglary	211.46
Total amount stolen	4,017.00
Amount returned by Chandler upon his arrest	290.50
Amount actually lost	3,726.50

Under instructions of the Paymaster-General, Major Maynadier has refunded the amount lost; but so far as the board can ascertain, it believes Major Maynadier exercised due care in the keeping of the public money intrusted to him, and therefore recommends that he be relieved from responsibility for the loss of the three thousand seven hundred and twenty-six dollars and fifty cents ($3,726.50), and that this amount, increased by the one hundred dollars ($100) paid by Major Maynadier for the arrest of Chandler, making a total of three thousand eight hundred and twenty-six dollars and fifty cents ($3,826.50) be restored to Major W. M. Maynadier, paymaster, U. S. Army.

There being no further business before it, the board adjourned *sine die.*

RODNEY SMITH,
Major & Pay'm'r, U. S. A., President.
C. A. REYNOLDS,
Major & Q'r'm'r, U. S. A., Member.

JOHN SIMPSON,
Capt. & Ass't Q'r'm'r, U. S. A., Recorder.

A.

PRESCOTT, *April* 24, 1876.

Major W. M. MAYNADIER, *Paymaster, U. S. A.:*

SIR: In reply to your verbal request relative to the amount of funds found short by you in your office safe, as per your account current for April, 1876, I will here frankly confess that the combination lock on said safe I considered insecure and worthless, and that I was, without knowing any single number of the combination of the lock, able at almost any time to open said safe, and that at different times I did open said safe, and abstract therefrom money for my own use for which you were responsible.

The amount abstracted at various times I am unable to state, but am satisfied that all shortages on your accounts were through my means.

I am, sir, truly yours,

D. D. CHANDLER.

B.

PRESCOTT, A. T., *April* 24, 1876.

To the Telegraph Operator, Prescott, A. T.:

SIR: Any telegraphic dispatches that may arrive for me please hand to Major Maynadier. He has my authority for opening and answering the same.

D. D. CHANDLER.

I certify that the foregoing is a true copy.

EDWARD LYNCH,
2d Lieut., 8th Infantry.

C.

U. S. CLERK'S OFFICE,
Prescott, Arizona Territory, May 25th, 1876.

Major WM. M. MAYNADIER,
Paymaster, U. S. Army, Fort Whipple, Arizona Territory:

DEAR SIR: I hereby state that David D. Chandler, former clerk in the pay department, U. S. Army, did, on the 22d day of April, 1876, acknowledge in my presence that he, the said David D. Chandler, did, on or about the 1st day of April, 1876, steal or embezzle the sum of four thousand and seventeen dollars ($4,017.00), U. S. currency, funds belonging to the United States of America. And I further state that the said David D. Chandler did then and there acknowledge in my presence and pay over to Major William M. Maynadier aforesaid, the sum of two hundred and ninety ($290) dollars, U. S. currency, being (as he, the said David D. Chandler, then and there acknowledged) of the funds stolen or embezzled as aforesaid.

And I further state that the said David D. Chandler did then and there, in my presence and hearing, express the hope that he should soon be able to pay over to the said William M. Maynadier, the balance of the funds stolen or embezzled by him—amounting to three thousand seven hundred and twenty-seven dollars—stating that he hoped and expected to receive funds from some friends residing in the East for that purpose.

Very respectfully yours,

WILLIAM WILKERSON,
Clerk United States District Court, Third Judicial District, Arizona Territory.

Subscribed and sworn to before me this 26th day of May, 1876.
[SEAL.] W. F. HIGGINS,
Notary Public.

I certify that the foregoing is a true copy.

EDWARD LYNCH,
2d Lieutenant, Eighth Infantry.

I hereby certify that I arrested David Dodd Chandler, late paymaster's clerk for Major W. M. Maynadier, stationed at Fort Whipple, A. T., on a warrant sworn out by said Major Maynadier, charging him with grand larceny.

I received said Chandler from I. D. Dunlap, U. S. deputy marshal for southern dist. of California, at Ehrenberg, on the 11th day of April, A. D. 1876, he having been arrested by him at San Bernardino, Cal. With the body of said Chandler I received from Marshal Dunlap the sum of two hundred and ninety and $\frac{40}{100}$ dollars, nearly all of which was in fractional currency and in original packages as sent from Treasury.

While in my custody, Chandler admitted to me that he did not have access to the money-vault of the safe of Major Maynadier by right or consent of said Maynadier, but by fraudulently obtaining the combination, by which means he obtained the money; told me he had lost a good deal gambling. I took him before the U. S. commissioner on the warrant, for examination, which he waived.

He had an interview with Major Maynadier, after which Major Maynadier told me that Chandler had confessed all of the stealing to him and the manner in which it was done.

Chandler told me that he was to give Major Maynadier a statement. That he (Chandler) had sisters who were wealthy, and they would make up all the money which he was delinquent, and requested paper to write to them, and did so. I posted the letters for him. He told me they would place the money to the credit of Major Maynadier in St. Louis, Mo., as soon as they got his letters. The day following this Major Maynadier called, and I saw Chandler hand him a paper, saying, I think, "Here is a correct statement of the amount."

Chandler told me that he did not wish any examination, and that if the U. S. grand jury found an indictment against him he should plead guilty to the charge.

He never denied to me having taken the money from the safe by fraud, and whenever he spoke of the matter, said his sisters could refund it.

Said Chandler escaped from jail at Prescott, A. T., on the night of May 12th, 1876, and is still at large.

F. D. PARKER,
Late U. S. Deputy Marshal 3d District of Arizona.

Subscribed and sworn to before me this 25th day of May, 1876.

WILLIAM WILKERSON,
Clerk, U. S. Dist. Court, Third Judicial District, Arizona.

A true copy.

EDWARD LYNCH,
2d Lieut., 8th Infantry.

D.

IN THE TERRITORY OF ARIZONA,
County of Yavapai:

Personally appeared before me, a notary public, G. A. Ochus, telegraph operator at Prescott, Arizona Territory, and said that during the month of March, 1876, he occupied a room as a telegraph office adjoining the office of Major W. M. Maynadier, paymaster, U. S. A., and that on several occasions before the robbery of the paymaster's safe, he heard suspicious noises in the night, in said paymaster's office, as if some person was working at the safe; that on Friday night (March 31st, 1876), before the robbery, hearing these noises again, he called through the partition to ask of the clerk Chandler what was the trouble, and spoke of the noise, and that Chandler replied that the noise was caused by his dog. On one occasion, late at night, when these noises were heard, he went into the paymaster's office to learn whether any one was tampering with the safe, and found Chandler there quietly reading.

G. A. OCHUS,
Telegraph Operator.

Subscribed and sworn to before me this Dec. 21, 1876.

E. S. PENWALL,
Notary Public.

TERRITORY OF ARIZONA, *County of Yavapai, ss:*

I, William Wilkerson, recorder in and for the said county of Yavapai, do hereby certify that E. S. Penwall is a notary public in and for said county; that his commission was dated on the twelfth (12th) day of May, A. D. 1876, and will expire on the (12) twelfth day of May, 1880.

In witness whereof I have hereunto set my hand and affixed my official seal, at my office in Prescott, A. T., on the 21st day of December, A. D. 1876.

[SEAL.] WILLIAM WILKERSON,
Recorder of Yavapai County, Arizona Territory.

E.

PRESCOTT, A. T., *November* 19, 1876.

To the president of the board of officers convened by G. O. No. 138, *Headquarters Dep't of Arizona, Nov.* 6, 1876:

SIR: I have the honor to submit the following statement for the consideration of the board:

Monday, the 3d day of April, 1876, upon entering my office and opening my safe, I found that it had, by some means, been opened by some other person or persons, and that most of the money had been taken.

After carefully verifying my accounts, I found that the sum of four thousand and seventeen ($4,017) dollars had been abstracted therefrom, and that only some two hundred and eleven (211) dollars in fractional currency had been left. Within half an hour after, I learned that my clerk, David D. Chandler, had left the previous day on the buckboard for California. This being the first intimation received that he had left, or that he intended to leave, I immediately suspected that he had robbed the safe. I at once swore out a warrant, had him pursued, arrested, and brought back to prison at Prescott, A. T., under charge of the U. S. deputy marshal; said David D. Chandler did, while in prison, on the 22d day of April, voluntarily make a written confession (copy herewith), acknowledging the theft, and promising to make restitution.

The United States deputy marshal turned over to me, in presence of and with consent of said Chandler, the sum of two hundred and ninety dollars and fifty cents ($290.50), most of which was in original packages, and taken from the body of said Chandler when arrested. The money the said David D. Chandler there and then acknowledged to have been part of the money stolen by him from my safe.

I would respectfully state that the said David D. Chandler never had the combination of the safe lock, and was never permitted by me to enter said safe.

The safe, when not being actually used by me, was kept constantly locked, and I frequently changed the combination to preclude the possibility of any person acquiring it by looking on while I was handling it.

The safe from which the money was stolen was turned over to me by the chief quartermaster of the Department of Arizona upon my arrival at this place in August, 1875, and there being no depository at Prescott, I was authorized and obliged to keep the public money in said safe. I believed the safe to be secure in every respect, but have now grave doubts as to its security under the hands of an expert.

When I received my appointment as paymaster, I asked the Paymaster-General if he knew of a suitable clerk he could recommend to me; but he did not happen to know of any at the time. Colonel Cary, paymaster, U. S. A., then informed me that he knew of an excellent man, David D. Chandler, who had been clerk for him for two or three years, and who was then serving as clerk to Major Bridgeman, paymaster, U. S. A.; that he could recommend him as being a good clerk and a reliable man. Upon such recommendation I employed Chandler as my clerk, although previously I had no knowledge whatever of the man. I always considered Chandler, while serving with me, to be a man of strict integrity and good moral habits, and an excellent clerk. He was appointed my clerk to date from June 1st, 1875, and joined me at Chicago, on June 9th, en route to San Francisco.

In my weekly statement for the 5th day of February, 1876, I had on hand in my safe $145.27, the balance required by my account. On February 9th I received from Major Roche, paymaster, $35,000, currency, and after verifying original packages deposited the money in my safe. I remained at my station throughout the month of February, and on the last day of the month my balance on hand was found correct, the original packages (already counted by me) being taken at their marked value, which is the usual method of balancing cash in banks, business houses, and by all disbursing officers.

I started out on a paying tour the 2d day of March, and returned the 25th day of same month. My accounts then balanced correctly. I balanced my accounts and rendered weekly statements as follows: February 5th, 12th, 19th, and 26th, March 4th, 11th, 18th, and 25th, copies herewith, and found my cash correct.

I am not able to state that money had not been abstracted by Chandler previous to March 31st, for the reason that my calculations were always based on the proper contents of original packages, which original packages were always carefully counted by me before being deposited in my safe. On my tour from 2d to 25th March I took from the safe the money required in original packages and found them to be correct.

I keep a separate till in my safe, in which I place all broken packages of money, and the original packages I keep carefully packed in a separate part of the safe. In verifying my cash I always counted broken packages in detail and the original as received.

At the time of the robbery, April 1st, 1876, my name was before the U. S. Senate for confirmation, and fearing that it would defeat the confirmation I did not report the robbery immediately, but borrowed the amount that was short and placed it in my safe, as my monthly and weekly statements will show that I had on hand the amount of cash for which I was responsible. I immediately wrote to my bondsmen and notified them of the course I had pursued and requested them to make the amount good; when I received an answer from them they told me to return the money borrowed and report the amount short to the Paymaster-General, which I accordingly did about May 1st, 1876.

Respectfully submitted.

W. M. MAYNADIER,
Paymaster, U. S. A.

Sworn to and subscribed before me this 21st day of November, 1876.
[SEAL.]

JAMES GOUGH,
Notary Public.

F.

PRESCOTT, A. T., *April 24th*, 1876.

Received of W. M. Maynadier, U. S. A., one hundred dollars reward offered for the capture of D. D. Chandler.

JAMES STEWART.

OFFICE OF THE SHERIFF, COUNTY OF SAN BERNARDINO,
San Bernardino, Cal., April 12th, 1876.

Mr. JAMES STEWART:

DEAR SIR: Inclosed I send you the telegram offering $100 reward for the capture of Chandler, also the one ordering him turned over to the U. S. deputy marshal, and his receipt for him.

I want you to collect the $100 from the paymaster, W. M. Maynadier, and receipt for the same, and bring it to me when you come in.

Respectfully yours,

A. J. CURRY,
Per MAYFIELD.

G.

PAYMASTER-GENERAL'S OFFICE, WAR DEPARTMENT,
Washington, Aug. 30, 1872.

"WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
"*Washington, Aug.* 20, 1872.

"To the PAYMASTER-GENERAL,
"*Washington, D. C.:*

"SIR: Referring to your communication of the 19th instant, recommending that the paymaster at Prescott, Arizona, be authorized to keep the public funds intrusted to him in his own possession, he being remote from any U. S. depository, I have the honor to inform you that your recommendation has been approved by the Secretary of War, and the Secretary of the Treasury has been notified accordingly.

"Very respectfully, your obedient servant,

"E. D. TOWNSEND,
"*Adjutant-General, U. S. A.*"

Official copy.

CARY H. FRY,
Deputy Paym'r-General, Chief Paym'r Mil. Div. of the Pacific.

Official copy respectfully furnished for the information of the chief paymaster Military Division of the Pacific, who will cause copies to be furnished to the chief paymaster Department of Arizona, and the paymaster at Prescott.

BENJ. ALVORD,
Paymaster-General, U. S. A.

Official copy.

CARY H. FRY,
Deputy Paym'r-General Chief Paym'r Mil. Div. of the Pacific.

Official copy for Major W. M. Maynadier.

H. PRINCE,
Chief P. M.

SAN FRANCISCO, *July* 10, 1875.

Official copy.

I. I. VAN HORN,
Captain 8th Infantry.

H.

PAY DEPARTMENT, U. S. ARMY,
Prescott, A. T.. April 1st, 1876.

SIR: I have the honor to report my balance of public funds on deposit and in hand at the close of the month ending March 31st, 1876, as follows:

Deposited with the Ass't Treas. of the U. S. at New York	$552.31
Deposited with the Ass't Treas. of the U. S. at San Francisco	45.74
Deposited with the depository of the U. S. at Tucson	451.32
Cash in safe	4,081.11
Total amount	5,130.48

Very respectfully, your obedient servant,

W. M. MAYNADIER,
Paymaster, U. S. A.

To the PAYMASTER-GENERAL, U. S. A.,
Washington, D. C.

A true copy.

W. M. MAYNADIER,
Paymaster, U. S. A.

PRESCOTT, ARIZONA, *24th May*, 1876.

SIR: I cheerfully state that immediately upon the capture of D. D. Chandler, late clerk in the pay department, U. S. Army, I received a telegraphic communication from you requesting me to act promptly in enforcing the law as applicable to that case. Within a few days from the receipt of that communication I was at Prescott, where I have been continuously until the present time. Upon my arrival Chandler was in the custody of the deputy United States marshal, and I was informed at that time that you had stated to that officer that if there was the slightest danger of an escape you could, and with his consent would, have him confined in the guard-house at Fort Whipple; the deputy marshal refused to permit the prisoner to leave his custody.

Fully a week before the escape of Chandler I received a written communication from you, in which you informed me that you had learned there was a project on foot to assist Chandler to escape, and in that communication you desired me use every exertion in my power to prevent such an occurrence.

I proceeded at once, in pursuance of the suggestions contained in your letter, to the office of the deputy marshal, and then and there notified him of what I had heard, and cautioned him to use every possible precaution to prevent the escape of Chandler. In spite of these cautions the man escaped, and I do not hesitate to say that it was through and by the grossest carelessness on the part of F. D. Parker, the deputy United States marshal.

Now, a word as to the criminality of Chandler: There is not the slightest doubt in my mind as to his guilt, and you will admit that my opportunity for knowing is as good as well could be, since I examined the proofs with a view to conducting the proceedings against him on the part of the prosecution.

I saw the written confession made by Chandler, and heard a statement from his own lips, which convinced me beyond a doubt that he committed the offense for which he was in confinement. Aside from this, he informed me that it was his intention to plead guilty to the charge against him on his arraignment before the court.

Chandler was in confinement from the time he was captured until his escape, and I say again that his escape was due solely and only to the criminal negligence of the deputy marshal.

I desire to say further, that from what I know of the facts of the case, that the robbery was through no carelessness or want of care on your part.

Very respectfully, your obedient servant,

EVERETT B. POMEROY,
United States Attorney, Arizona.

Paymaster WM. M. MAYNADIER, U. S. A.,
Fort Whipple, A. T.

Subscribed and sworn to before me this 26th day of May, A. D. 1876.

W. F. HIGGINS,
Notary Public.

I certify that the foregoing is a true copy.

EDWARD LYNCH,
2d Lieut., 8th Infantry.

TERRITORY OF ARIZONA, *County of Yavapai, to wit:*

I, Murat Masterson, being duly sworn according to law, depose and say:

1. That I was the attorney of David Dodd Chandler, who was arrested on a charge of robbery from Major Maynadier; that he employed me to make the necessary preparations to conduct his defense to said charge; that he waived examination and was sent to jail in default of bail; that afterwards he came to my office and met Major Maynadier at the same time, and that they had a long conversation together in my presence; that in the conversation he proposed to write to his sister and obtain the amount of money from her, *and make good the amount he had stolen from Major Maynadier*, and asked Major Maynadier to do all he could with the district attorney of the United States and with the judge of the district court, so that he would get out of his trouble as easily as possible; that he acknowledged that he had taken from Major Maynadier the sum of four thousand and seventeen dollars, and that he had given to Major Maynadier two hundred and ninety dollars, and that the balance now due Major Maynadier from him was the sum of thirty-seven hundred and twenty-seven dollars, which was the amount he expected to get from his sister.

That said Chandler expressed himself as being very grateful to Major Maynadier for his forbearance and good offices in the premises; that this affiant afterwards was

told by said Chandler that he had written to his sister, and that he expected she would immediately telegraph him on the money and help him out of his trouble.

MURAT MASTERSON.

Sworn to and subscribed before me this 25th day of May, 1876.

WILLIAM WILKERSON,
Clerk United States District Court, Third Judicial District, Arizona.

A true copy.

EDWARD LYNCH,
2d Lieut., 8th Infantry.

PRESCOTT, ARIZONA, *Nov. 29th*, 1875.

I take great pleasure in certifying that I have known Major Wm. M. Maynadier, paymaster, U. S. A., since his arrival at this station, August 30th, 1875, and that in all this time his habits have been unexceptionable in every respect.

D. L. MAGRUDER,
Surgeon, U. S. A., Med'l Drctr., Dept. Arizona.

ST. LOUIS, *June 30th.*

Major MAYNADIER:

Your letters containing the news of my brother's difficulty have been received. The first I delayed answering, since writing upon such a subject must necessarily be painful to me, and I know I could say nothing that would be satisfactory to you; while regretting exceedingly your loss, I feel I can not be responsible for the money. It is now more than ten years since my brother left us, and until a short period before that time he had our entire confidence and the management of my husband's business.

Unknown to us he fell into habits of gambling, and before we were aware of it involved us to such an extent that we are still suffering from the effects, and will probably not be able to extricate ourselves for years.

His positions since his departure from St. Louis have been obtained without any recommendations or assistance of mine, and though the mortification caused by his action is intense, I can not see that I am under the least obligation to pay his debts. It is a matter of surprise and sorrow that Mrs. Femister, who knew my brother and the circumstances connected with his leaving here, did not give you some information concerning his habits, for if you had been placed upon your guard this trouble might easily have been avoided.

Once more let me express my regret, and be assured that common justice to myself and those dependent upon me compels my decision.

Respectfully,

S. E. SICKLES.

A true copy.

W. M. MAGRUDER,
Maj. & P. M., U. S. A.

[1st indorsement.]

HEADQURS. DEPT. OF ARIZONA,
Prescott, Dec. 29, 1876.

Respectfully forwarded to the Adjutant-General of the Army, approved.

AUGUST V. KAUTZ,
Colonel 8th Infantry, Brevet Major-General, Comd'g Dep't.

[2d indorsement.]

ADJUTANT-GENERAL'S OFFICE,
Washington, Jan'y 18, 1877.

Respectfully referred to the Paymaster-General for remark.

E. D. TOWNSEND,
Adjutant-General.

[3d indorsement.]

PAYMASTER-GENERAL'S OFFICE,
June 12, 1878.

Respectfully returned to the Adjutant-General of the Army.

I approve of the finding of the court of inquiry, which is favorably indorsed by the commanding general Dept. of Arizona.

BENJ. ALVORD,
Paymaster-General, U. S. Army.

Rec'd back, A. G. O., June 13, '78.

[4th indorsement.]

ADJUTANT-GENERAL'S OFFICE,
Washington, June 15th, '78.

Respectfully submitted to the Secretary of War.

E. D. TOWNSEND,
Adjutant-General.

Rec'd back, A. G. O., June 26, '78.

APPENDIX B.

A partial list and statement of precedents in which bonded officers of the Government who had public funds stolen from them and relieved of responsibility to the Government of the United States by acts of Congress.

No.	Name.	Commissioned as—	Act of Congress.	Amount stolen.	U. S. Statutes at Large.	
					Vol.	Page.
1	Cross, O	Quartermaster in the Army	Jan. 7, 1853	$3, 264. 55	10	742
2	Glynn, J	Commander in the Navy, acting purser (on coast of Mexico 1850).	Feb. 3, 1853	1, 338. 70	10	749
3	Easton, L. C	Assistant quartermaster in the Army.	May 25, 1856	17, 650. 00	11	448
4	Belger, J	Assistant quartermaster in the Army.	Feb. 3, 1857	9, 300. 00	11	491
5	Donaldson, J. L	Assistant quartermaster in the Army.	Jan. 1, 1858	400. 00	11	535
6	Cocke, J. H	Marshal (eastern district of Texas, 1857).	Apr. 6, 1860	2, 041. 93	12	834
7	Grant, Ulysses S	Lieutenant commissary and regimental quartermaster, Fourth Infantry (1848).	June 17, 1862	1, 000. 00	12	905
8	Clarke, E. St. Clair	Assistant paymaster in the Navy.	Feb. 25, 1867	4, 022. 00	14	624
9	Ellis, J. H	Paymaster in the Army	Mar. 9, 1868	3, 673. 91	15	356
10	Davidson, J. W	Lieutenant colonel in the Army	Mar. 3, 1869	218. 25	15	458
11	Gates, S. M	Postmaster	do	726. 73	15	465
12	Gibbons, H. S	Postmaster	do	500. 00	15	464
13	Bolling, R. R	Surveyor of customs	June 10, 1872	23, 838. 77	17	704
14	Cutter, G. F	Paymaster in the Navy	Feb. 14, 1873	254. 00	17	730
15	Gardner, W. F	Second lieut., acting assistant quartermaster.	Feb. 21, 1873	1, 753. 92	17	734
16	Blackwell, J. R	Postmaster	Apr. 15, 1874	535. 85	18	539
17	Dyer, A. B	Brig. Gen., Chief of Ordnance.	May 12, 1874	9, 853. 42	18	548
18	Dawson, G. W	Collector of internal revenue	Mar. 3, 1875	72. 00	18	360
19	Babbitt, A. W	Secretary of the Terr. of Utah.	Apr. 17, 1876	12, 972. 00	14	581
20	Atkinson, J	Collector of internal revenue	July 19, 1876	14, 819. 33	19	455
21	Collier, T. W	Postmaster	Apr. 29, 1878	938. 72	20	514
22	Clinton, J	Postmaster	June 3, 1878	265. 37	20	537
23	Douglass, J. W	Collector of internal revenue	Mar. 1, 1879	6, 865. 67	20	602
24	Defrees, J. D	Public Printer	May 26, 1880	9, 813. 00	21	542
25	Eyster, G	Assistant Treasurer	June 9, 1880	882. 50	21	553
26	Barry, W. W	Passed assistant paymaster in the Navy.	Dec. 23, 1880	2, 605. 54	21	601
27	Cunningham, J. S	Pay Director in the Navy	Feb. 8, 1881	1, 284. 19	21	605

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 669.

LEWIS D. ALLEN.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CLANCY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2112.]

The Committee on War Claims, to whom was referred the bill (H. R. 2112) for the relief of Lewis D. Allen, submit the following report:

This measure was considered by this committee during the first session of the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 1599, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2761) for the relief of Lewis D. Allen, report as follows:

Your committee adopt the report hereunto annexed, from the Committee on War Claims of the Fiftieth Congress, and report the bill back and recommend its passage.

[House Report No. 1885, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 5089) for the relief of Lewis D. Allen, report as follows:

Lewis D. Allen, at present a citizen of the State of Connecticut, was, at the outbreak of the war of the rebellion, a citizen of the State of Missouri. For a portion of the war he was in the employ of the Quartermaster-General's Department and with the Army operating in the States of Tennessee and Mississippi. His duties to his sick family caused him to resign from the Quartermaster-General's Department, and he subsequently secured proper authority to act as a trader.

In consequence of a supposed violation by him of trading regulations certain property of his, horses, mules, wagons, saddles, hides, safe, money, etc., amounting in value to the sum of $7,233.34, was seized by the military authorities at Corinth, in the State of Mississippi, on the 4th day of February, A. D. 1863.

Subsequently a military commission inquired concerning the seizure and found it unwarranted, and adjudged a return of the property or pay for it; but in consequence of military movements attention could not be given to the matter, and the decision of the commission was not carried out, and claimant lost his property absolutely, and he has never been paid.

The claimant's loyalty to the United States is beyond possibility of doubt.

He presented a petition to the Commissioners on Claims under the act of Congress of March 3, 1871, but it was rejected by them on the ground of want of jurisdiction.

Your committee are well satisfied with the justness of the claim, and recommend that the said bill so referred to them do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 670.

JACKSON BRISCOE.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CLANCY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1019.]

The Committee on War Claims, to whom was referred the bill (H. R. 1019) for the relief of Jackson Briscoe, submit the following report:

This measure was considered by this committee in the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[House Report No. 2062, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 8164) for the relief of Jackson Briscoe, report as follows:

Your committee adopt the report, hereto annexed, from the Committee on War Claims of the Fiftieth Congress, and report back the bill and recommend its passage.

[House Report No. 2756, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 8968) for the relief of Rev. Jackson Briscoe, having considered the same, submit the following report:

This is a bill to pay Jackson Briscoe, a minister of the gospel, $175 for a horse taken from him in pursuance of Special Order No. 7, issued by Brig. Gen. M. Brayman, July 18, 1864, in which all private horses in the district of Natchez, Miss., then commanded by Gen. Brayman, were seized for the public use. The proof shows that this horse was the only means of transportation possessed by the Rev. Briscoe by which he could visit the churches under his charge. It seems that the United States Army took this horse and appropriated it to the public service, and, in the opinion of the committee, the Government ought to pay for it, and report back the bill with the recommendation that it pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 671.

LEWIS D. ALLEN.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CLANCY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2195.]

The Committee on War Claims, to whom was referred the bill (H. R. 2195) for the relief of Lewis D. Allen, submit the following report:

This measure was considered by this committee during the first session of the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 1478, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the claim of Lewis D. Allen, report as follows:

That the Committee on War Claims of the Forty-ninth Congress not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims, for a findings of fact, under the provisions of the Bowman act. Said claim has been returned to the committee with the accompanying findings of fact, to wit:

Your committee report herewith a bill for the relief of the claimant and recommend its passage.

House Mis. Doc. No. 34, Fifty-first Congress, first session,

Letter from the assistant clerk of the Court of Claims, trasmitting fi ings by the Court of Claims in the case of Lewis D. Allen vs. The Uni States.

DECEMBER 16, 1889.—Referred to the Committee on War Claims and ordered to printed.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 14, 1889.

SIR: Pursuant to the order of the court, I transmit herewith a c tified copy of the findings filed by the court in the aforesaid cau which case was referred to this court by the Committee on War Clai House of Representatives, under the act of March 3, 1883, being a c plicate of the findings certified to the Speaker of the House of Rep sentatives February 28, 1889.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. THOS. B. REED,
Speaker of the House of Representatives.

[Court of Claims. L. D. Allen vs. The United States. Cong. No. 1029.]

This case, being a claim for supplies or stores alleged to have been taken b furnished to the military forces of the United States for their use during the late for the suppression of the rebellion, the court, on a preliminary inquiry, finds t L. D. Allen, the person alleged to have furnished such supplies or stores, or f whom the same are alleged to have been taken, was loyal to the Government of United States throughout said war.

Filed May 14, 1888.

[Court of Claims. Lewis D. Allen vs. The United States. Congressional case No. 1029.]

At a court of claims held in the city of Washington on the 14th day of Janu A. D. 1889, the court filed the following findings of fact, to wit:

FINDINGS OF FACT.

The claim or matter in the above-entitled case was transmitted to the court by Committee on War Claims, House of Representatives on the 28th day of May, 18

Gilbert Moyers, esq., appeared for claimant, and the attorney-general, by F Brannigan, esq., his assistant, and under his direction, appeared for the defense protection of the interests of the United States.

The case having been brought to a hearing on the 10th day of January, 1889, the court, upon the evidence and after considering the briefs and arguments of counsel on both sides, finds the facts to be as follows:

I.

The claimant, Lewis D. Allen, during the early part of the late war, resided in St. Louis, Mo., and after the Federal occupation of the city of Natchez, Miss., removed to the last named place, and engaged in the business of buying and selling cotton.

II.

During his residence in Natchez, to wit in July, 1864, he became suspected by the military authorities of conducting his business in violation of the military orders in force in the regulation of the cotton trade, and as a result of that suspicion he was arrested by said authorities and taken before General Mason Brayman, then in command at said place. Instead of giving bond for his appearance (it being necessary to continue the matter) the said Allen deposited with George D. Reynolds, provost marshal at said place, the sum of $2,000 for his appearance.

III.

General Brayman caused an investigation of the said charge to be made, and became satisfied from such investigation that the said Allen was not guilty of any violation of the military regulations in relation to trade. During the pendency of said matter before the general commanding, the said Reynolds had in pursuance of his duty transmitted said money to his superior officer at Vicksburg, Miss., and no order was made in reference thereto by General Brayman in consequence of said fact.

IV.

It does not appear what became of said money after it was transmitted as aforesaid, nor does it appear that the said claimant ever received back any portion of said money.

Filed January 14, 1889.

BY THE COURT.

A true copy.
Test: This 14th day of December, A. D. 1889.

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[In the Court of Claims. December term, 1885. Lewis D. Allen *vs.* The United States. No. 1029, Congressional.]

PETITION.—*Filed June* 17, 1886.—*A. H.*

To the Honorable the Court of Claims of the United States:

Your petitioner, Lewis D. Allen, respectfully represents, that he is a citizen of the United States, residing in Washington, D. C., and during the late war of the rebellion he resided in St. Louis, State of Missouri; that on or about the 19th day of July, A. D. 1864, while in Natchez, Adams County, State of Mississippi, your claimant being engaged in the purchase and shipment of cotton, under permits from the Treasury Department of the United States, at St. Louis, Mo., Memphis, Tenn., and New Orleans, La., deposited with the provost marshal of the post, and district of Natchez, Miss., $2,000, temporarily, for which a receipt was given; and that the military authorities of the United States there stationed, Brig. Gen. M. Brayman commanding said post and district of Natchez, Miss., appropriated the same to their use.

Your petitioner further states that his claim for compensation for said money was presented to the War Department, Claims Division, on or about September 5, 1879, and payment waived for want of jurisdiction.

Your petitioner made application to the Congress of the United States for relief, and on or about May 14, 1886, said petition was, by the Committee on War Claims of the House of Representatives, referred to the honorable Court of Claims, under act of Congress approved March 3, 1883, entitled, "An act to afford assistance and relief

to Congress and the Executive Departments in the investigation of claims and demands against the Government."

Your petitioner further states, that his said claim has not been assigned or transferred, and he is the sole owner thereof; that it is correct and just; that he did not give any aid or comfort to the late rebellion, but was throughout that war loyal to the Government of the United States.

Wherefore, your petitioner prays, that when the facts shall have been ascertained as to his loyalty and the justice of his claim, the same may be reported to the House of Representatives of the United States, or to the said Committee on War Claims, as provided in said act of March 3, A. D. 1883.

L. D. ALLEN.

GILBERT MOYERS,
Attorney for Claimant.

Personally appeared before me Lewis D. Allen, who, being duly sworn, says that the statements contained in the foregoing petition are true to the best of his knowledge, information, and belief.

Subscribed and sworn to before me this 15th day of June, 1886.

[SEAL.] G. W. BALLOCH,
Notary Public.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 672.

MARY E. SIMERLEY.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CLANCY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4384.]

The Committee on War Claims, to whom was referred the bill (H. R. 4384) for the relief of Mary E. Simerley, submit the following report:

It seems to your committee that this claim should be referred to the Court of Claims for a finding of facts under the provisions of the act of March 3, 1883, and of March 3, 1887, and report herewith a resolution to that effect and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 673.

OLD DOMINION STEAMSHIP COMPANY.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COX, of New York, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 4076.]

The Committee on Claims, to whom was referred the bill (H. R. 4076) for the relief of the Old Dominion Steamship Company, beg leave to report the same with the recommendation that it do pass.

The facts in this case are substantially set forth in the evidence on file in the Claims Committee of the House and letters from the Treasury Department and letter from the vice-president and general manager of the Old Dominion Steamship Company, which letters are hereby made part of this report.

TREASURY DEPARTMENT, *February 16, 1889.*

SIR: This Department is in receipt of your letter, dated the 9th instant, inviting attention to the fine of $1,266.66 imposed on the steamer *Manhattan* for a violation of section 2809, Revised Statutes.

It appears that the collector informs you that the money "is not in his hands."

The Department's instructions to the collector, under date of December 5, 1888, mitigating the penalty aforesaid, were based, as expressly stated therein, upon the understanding that the amount was subject to the collector's control.

A report obtained from him on the 14th instant shows that the money was deposited by him May 18 last, and it was covered into the Treasury in the second quarter of the year 1888, a considerable time before the receipt (November 30, 1888) of your petition with judge's statement annexed. It does not appear, therefore, that this Department has authority to repay any portion of the money.

Respectfully, yours,

HUGH S. THOMPSON,
Acting Secretary.

H. A. BOURNE, Esq.,
General Manager Old Dominion Steamship Company, New York.

CUSTOM-HOUSE, COLLECTOR'S OFFICE,
New York, N. Y., December 18, 1888.

SIR: I am in receipt of your letter of the 15th instant, stating that you have received advice from the Department that a refund of the fine of $1,266.66, excepting $100, exacted from the master of the steamship *Manhattan* for a violation of section 2809, Revised Statutes, has been remitted, and asking that said amount be therefore returned to you.

In reply I have to say that this office is also in receipt of a letter from the honorable Secretary of the Treasury, authorizing the refund of said amount, but this office

has made reply that, as the money was paid into the Treasury *as a fine*, no refund thereof can be made by the collector.

This office will await the instructions of the Department to take the steps that may be directed in the matter.

Very respectfully,

CHAS. P. MCCLELLAND,
A Deputy Collector.

H. A. BOURNE, Esq.,
General Manager Old Dominion Steamship Company, New York.

TREASURY DEPARTMENT, BUREAU OF NAVIGATION,
Washington, D. C., March 11, 1889.

SIR: Referring to your letter of the 7th instant, I transmit herewith a copy of the findings in the matter of a petition of Frank W. Stevens, master of the steamship *Manhattan*.

The facts are substantially set forth in the inclosure, and it is presumed that copies of the residue of the papers, which are bulky, are not necessary for the purpose you mention.

Respectfully, yours,

C. B. MORTON,
Commissioner.

H. A. BOURNE, Esq.,
New York.

TREASURY DEPARTMENT,
Washington, D. C., December 30, 1889.

SIR: This Department is in receipt of your letter, dated the 26th instant, relating further to the case of the steamer *Manhattan*, in which this Department, on the 3d of December, 1888, gave instructions to the collector of customs at New York mitigating a penalty of $1,266 to the sum of $100.

The instructions were based, as expressly stated therein, upon the understanding that the money was subject to the control of the collector of customs at New York. On investigation it was found that he deposited the amount, and that it had been disposed of, prior to the receipt of the petition and judge's statement submitted, in such a manner as to preclude a refund of any portion of the money.

The Department would take pleasure in reporting the facts to Congress, or to any committee, on the receipt of a proper request therefrom, but does not deem it expedient to submit a bill as suggested in your letter.

Respectfully yours,

WM. WINDOM,
Secretary.

W. H. STANFORD, Esq.,
Vice-President Old Dominion Steamship Company, New York.

OFFICE OF THE OLD DOMINION STEAMSHIP COMPANY,
235 WEST STREET, CORNER BEACH,
New York, January 18, 1892.

DEAR SIR: Referring to my personal interview with you last Wednesday in the matter of the bill to be presented to the House of Representatives authorizing the paying over to this company some $1,166, now in the United States Treasury and due this company, my interview was so very short that I feel it is due that I should write you more particularly and apologize for the insufficient data I gave you. I expected to have had more time to make myself better understood.

To give you a synopsis of the whole matter: Capt. Stevens of our steamer *Manhattan*, was fined $1,266.66 for smuggling, cigars being found secreted in the coal bunkers of his steamer.

The collector of the port of New York (Mr. Magone) refused to allow the vessel go to sea until the fine was paid, and, as she was under charter, the charterers would have a claim against this company for delay; therefore we paid the fine under protest, pending the investigation.

An investigation was held before the collector, and he recommended to the Secretary of the Treasury that the fine be remitted, as the captain had no knowledge of the cigars being secreted in the ship and should not be adjudged guilty of negligence.

I presented the matter before the Secretary of the Treasury who referred it to the United States commissioner in New York. The matter was investigated by the commissioner, and, upon his findings, the Secretary of the Treasury instructed the collector at New York to pay back to this company the amount of the fine less $100, but, pending this, a good deal of time had elapsed, and when the order was presented to the collector the money had been covered into the Treasury.

I then went back to the Secretary of the Treasury, and was informed by the Law Department that there was then no authority whatever for the Secretary of the Treasury to pay over the money except by an act of Congress.

Our vice-president, Mr. Stanford, then had a bill prepared, of which you have a copy, and placed it in Gen. Spinola's hands, but, in consequence of the difficulty of getting anything through last year and Gen. Spinola's ill health, it got no further than the hands of the committee.

In the meantime, unfortunately for our records, our vice-president, Mr. Stanford, died, and I have no records except what I placed in your hands. I notice that the original order from the Secretary of the Treasury to the collector to pay over the money is not among them; whether it was lost or not I can not say, but I have thought there was sufficient data to satisfy the Committee on Commerce of the justice of our claim, and that the original bill might be reported favorably.

If I can give you any further information I shall be glad to do so, and I shall come on to Washington and go before the committee if you think it is necessary.

Very respectfully yours,

H. A. BOURNE,
Vice-President and General Manager.

Hon. JOHN R. FELLOWS, M. C.,
House of Representatives, Washington, D. C.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 674.

JAMES E. KELSEY AND OTHERS.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COX, of New York, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 4013.]

The Committee on Claims, to whom was referred the bill (H. R. 4013) for the relief of James E. Kelsey and others, submit the following report:

This claim embraced in the present bill was duly reported to the Court of Claims in the first session of the Forty-ninth Congress for a finding of facts under the provision of the act of March 3, 1883, commonly known as the Bowman Act. It appears that a hearing was had in that court of all the matters relating to the claimants' demand; that the United States was upon said hearing represented by counsel, and that after a hearing and due deliberation said court made a report as follows, to wit:

[Court of Claims. Congressional case No. 99. James E. Kelsey and others vs. The United States.]

FINDINGS OF FACT.

At a Court of Claims held in the city of Washington on the 16th day of April, A. D. 1888, the court filed the following findings of fact, to wit:

The claim in the above-entitled case was transmitted to the court by the Committee on Claims, House of Representatives, on the 21st day of April, 1884.

Messrs. Wilcox, Adams & Macklin, esqs., appeared for claimant, and the Attorney-General, by Lewis Cochran, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing on its merits on the 5th day of April, 1888, the court, upon the evidence and after considering the briefs and arguments of counsel on both sides, finds the facts to be as follows:

I.

On the 28th November, 1877, a collision occurred between the United States steam torpedo boat *Alarm* and the schooner *C. & C. Brooks* about 5 miles off the Jersey shore and about that distance from Barnegat Light; the time being about 10 o'clock p. m.; the night unusually dark; the sea rolling; the wind south, and blowing a 6-knot breeze.

II.

The schooner was sailing up the coast, her course being north-northeast, her booms at and prior to the collision being on the port side. She first sighted the steamer at a point probaly about 3 miles distant, seeing both her lights. From the time of first sighting the steamer, the schooner continued to hold her course until the moment immediately preceding the collision, when she may have put her helm a starboard.

III.

The steamer by reason of relative inferiority of the schooner's lights did not see her until about fifteen lengths, or from a third to half a mile distant. There was then, however, ample time to avoid collision. The steamer's course was south-southwest; and both vessels were substantially sailing on the same course in opposite directions, bows on.

The steamer was not built with a rudder, but was steered by a steam apparatus attached to her propeller, the method of steering being wholly different from the ordinary tiller or wheel and much more difficult. There was an indicator with a pointer attached to the axis, *i. e.*, a shaft running through the center of the indicator face, showing the direction of the effort given by the steering mechanism to move the vessel. On the face of the indicator there were thirty-one marks, making the thirty-two points of the compass. If the commanding officer wished to give the vessel the effect of a "port helm" in ordinary methods of steering he would give to the man at the steam lever a number between 16 and 32, 32 and 0 being identical. The novelty and peculiarity of the apparatus occasioned trouble with inexperienced men, and even with experienced steersmen was much more difficult than the ordinary method of steering by a rudder. The apparatus would produce much greater and decided effects than the ordinary helm, it being possible to turn her without the vessel progressing forward. This, from the fact that the vessel turned as if her bow were a pivot, was termed pivoting. On the night in question one of the most experienced steersmen on the steamer was at the apparatus, and the commanding officer was in person upon the deck, taking charge of the steamer.

IV.

On sighting the schooner the commanding officer of the steamer ordered the man at the steering apparatus to move the lever, the effect being the same as if the helm of an ordinary vessel had been ported. The steamer accordingly changed her course about two points, showing her red or port light to the schooner, and continuing on this deviation from her original course until the schooner saw her red light also. So far the movement of the steamer was without fault, and in obedience to the rule of the road. While the vessels were in this position of red to red, the commanding officer of the steamer fearing that he might be getting in shoal water, ordered her course to be changed southward with the intention of standing more offshore. It does not appear that the lead had been cast or what was the depth of water at the point of collision, further than may be seen on the charts at a distance of from 4 to 5½ miles southeast by south from Barnegat Light. Neither does it appear for what reason the commanding officer supposed the danger of shoal water was so imminent as to require a change of course at that moment. If the change of course effected by the steering apparatus was no greater than the order required (about one point) the new or third course would be about parallel to a prolongation of the steamer's original course, or south-southwest. The commanding officer expected to pass the schooner about two lengths on her port side, or to the west of her.

Almost immediately after this second change of course was effected, the schooner saw the steamer's green or starboard light, and the steamer presently saw the schooner's green light. The vessels then came in close proximity, the steamer crossing the schooner's bows, the master of the schooner shouting to the steamer that she would run him down.

At this point the commanding officer of the steamer, fearing that his vessel might be struck on her starboard quarter by the schooner, in whose path he then was, ordered the lever of the steering apparatus shifted to what was equivalent to hard-a-port, and the steamer went rapidly round, so rapidly that the vessels from having been starboard to starboard, and showing their green lights to each other, in a moment collided with the bluff of the steamer's port bow striking the bluff of the schooner's starboard bow, the steamer in effect having made a complete revolution.

The vessels in getting disengaged again collided and further damage was done, and the schooner suffered the injuries and losses more particularly set forth in the statement annexed to and forming part of these findings.

By reason of the length of time that has elapsed between the date of the collision and the trial of this case, the evidence on neither side is as clear and satisfactory as must be desired; and, by reason of the darkness of the night and the rolling of the sea and the small number of persons who witnessed the collision, the accounts given by the witnesses do not give a clear and explicit view of the situation. But the evidence establishes a strong probability that, when the commanding officer of the steamer, fearing that he might be running into shoal water, ordered the steering lever of the apparatus to be shifted, the vessel obeyed more than was supposed, she at the time going at a very low rate of speed, viz, about five knots an hour; so that,

instead of taking a southerly course, she took a course east of south, tending to run into the schooner or to cross her bows. It is also shown to be probable that, when the schooner saw the green or starboard light of the steamer suddenly appear and found that she had changed her course and shifted her position, and that she, the schooner, was in imminent peril, her steersman put his helm a starboard in obedience to the law of the road that requires green to green. And it is again probable as shown by the evidence, that when the commanding officer of the steamer finally put the steering apparatus to what was equivalent to hard a port the steamer was again brought around more rapidly than was intended, so that, instead of circling astern of the schooner, thereby avoiding a collision, she came around in little more than her own length and thereby collided upon the schooner's starboard bow.

The annexed diagram shows:

First. The position of the vessels at the time when the steamer first sighted the schooner.

Second. The position of the vessels when the commanding officer of the steamer, fearing that she was running into shoal water, ordered her course to be changed southward.

Third. The position of the vessels at the time of collision.

V.

The claimants have proved the following items of loss, injury, detention, and outlay:

1. Loss of mainsail, anchor, chain, and hawser	$410.08
2. Repairs to hull	228.16
3. 43 cords of wood thrown overboard to lighten vessel	346.00
4. Towing schooner to New York for repairs	12.00
5. Detention while undergoing repairs	392.00
6. Costs of defending salvage suit	150.00
7. Witness fees	5.50
8. Amount of salvage decreed against the schooner	340.15
Amounting to	1,883.89

VI.

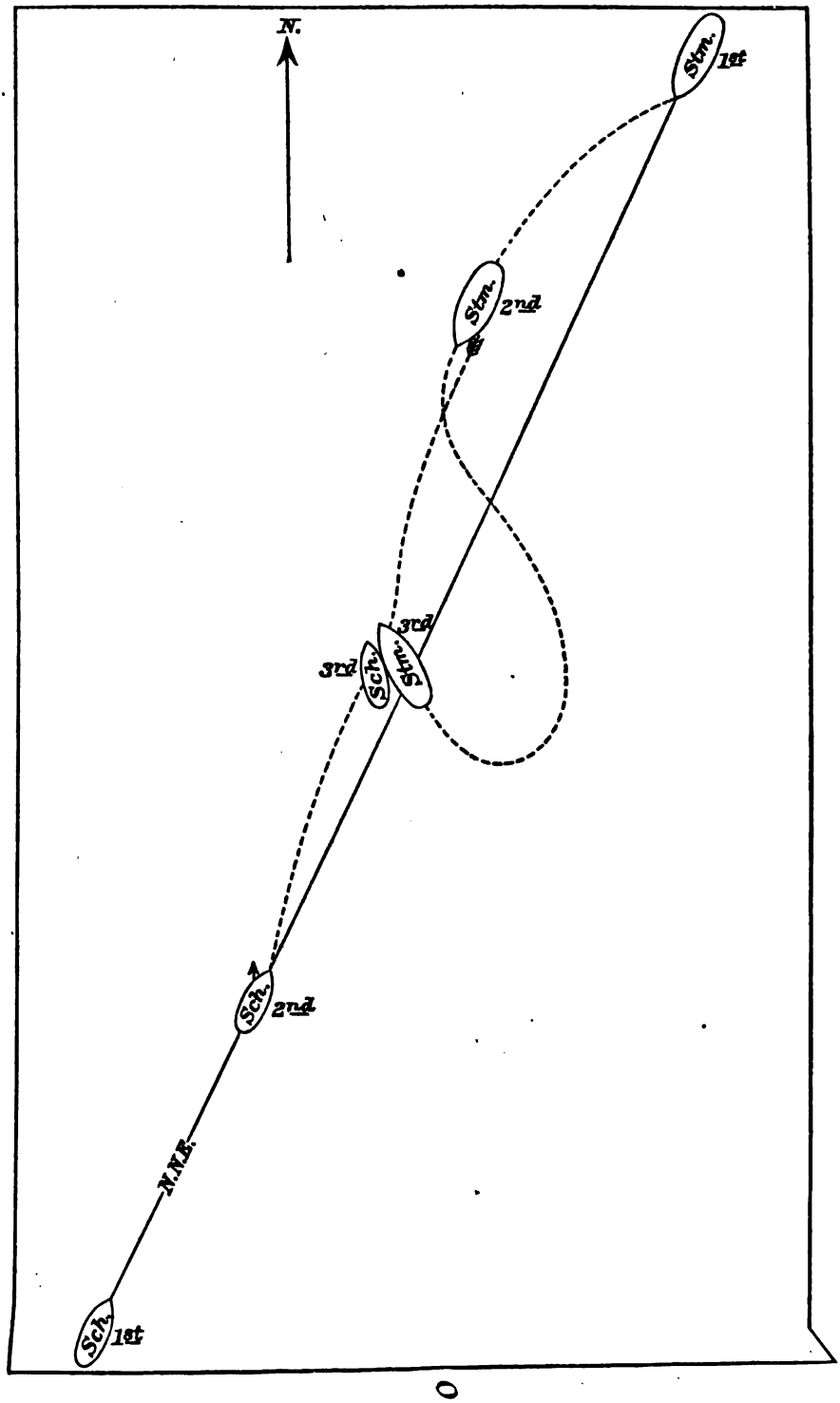
The claimants, James F. Kelsey, John Loughlin, John P. Kelsey, James Longmore, Theron Kelsey, and the estate of Samuel Lee were the owners of the schooner *C. & C. Brooks* at the time of the collision hereinbefore set forth. Israel Lee was duly appointed administrator of the estate of said Samuel Lee on the 18th day of June, 1877.

BY THE COURT.

Filed April 16, 1888.
A true copy.
Test, this 21st day of April, A. D. 1888.

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Your committee recommend that said findings of the Court of Claims be carried out by the passage of this bill with the following amendment: In lines 11 and 12 strike out the words "a judgment of."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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 675.

CITY OF LOUISVILLE, ETC.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COX, of New York, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1036.]

The Committee on Claims, to whom was referred House bill 1036, having considered the same, report the following:

This is a claim by the city of Louisville and the county of Logan, in the State of Kentucky, and the counties of Sumner and Davidson, in the State of Tennessee, through their sinking-fund commissioners, for the refund of certain taxes alleged to have been illegally collected. The facts out of which the claim arises are as follows:

The city of Louisville owned stock in the Louisville and Nashville Railroad, upon which dividends were declared from time to time. Under the internal-revenue laws a tax of 5 per cent was, for several years, levied upon these dividends. This tax was not collected directly of the city, but of the railroad company, and the dividends, less the tax, were paid by the company to the city.

This act of the railroad was without the knowledge or consent of the city.

The Supreme Court in similar cases has decided that the tax thus collected was illegal. Thus in the United States *v.* Railroad Company (17 Wallace, 322) the court said:

> A municipal corporation is a portion of the sovereign power of the State, and its revenues, like those of the State, are not subject to taxation.

This decision has been accepted in all the departments of the Government. (See letterof the Internal-Revenue Department of January, 18, 1889, being part of Report No. 3828, second session, Fiftieth Congress.)

The only question, therefore, before your committee is whether the city of Louisville should be relieved from the bar of the statute of limitations.

Upon this point your committee is of opinion that in a case like this the Government ought not to interpose such a plea. The statute in such cases is only two years, and these taxes were paid, not by the officers of the city, but by the railroad corporation, and this fact was not brought to the knowledge of the proper authorities until it was too late to present the claims to the Department, and without such action suit could not be brought (Revised Statutes, sec. 3226). Moreover this case does not come properly within the theory or object of the statute of limitations, which is to suppress claims that surprise the parties where

the evidence is obscure or lost. The evidence here is of record and by the terms of the bill the Department must be satisfied that such taxes were deducted before refund is made.

It is also well established doctrine that statutes of limitations do not run against a State. (13 Wallace, 99.) As the theory upon which the Supreme Court adjudged these dividends to be free from taxation was that the city is a "portion of the State," it would seem equitable that the same exemption from limitation should apply to both.

Congress has acted upon these principles in similar cases (claim of Hardin County, 2d sess. 50th Cong.; claim of J. A. S. Tutt, 1st sess. 50th Cong.; claim of S. E. Webster, 2d sess. 48th Cong.) and also in other cases where the statute of limitations was not so short and the equities not so strong. (Claim of Farran and McLean, 50th Cong.; Geo. S. Hunt & Co., 2d sess. 48th Cong.; Coronna, Taussig & Co., 1st sess. 49th Cong.; Thomas Matthews and others, 2d sess., 50th Cong.).

In view of these precedents and of the foregoing facts, your committee is of opinion that Congress should grant the relief asked for.

Your committee have reported favorably a bill for the relief of Simpson County, and therefore recommend that this bill be amended by striking out "and Simpson counties" in line 6, and inserting in lieu thereof the word "county," and as so amended, it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 676.

HEIRS OF SAMUEL MILLIKEN, DECEASED.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COX, of New York, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 4969.]

The Committee on Claims, to whom was referred the bill (H. R. 4969) for the relief of the heirs of Samuel Milliken, deceased, beg leave to report the same with the recommendation that it do pass.

The facts in this case are substantially stated in the letter from the First Auditor of the Treasury Department and statement accompanying same, which letter and statement are submitted herewith, and made part hereof.

TREASURY DEPARTMENT,
OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT,
Washington, D. C., January 9, 1892.

SIR: In reply to your letter of the 7th instant requesting to be furnished with "An itemized and audited statement of account of the services of Samuel Milliken, on route No. 9704, from Port Gibson to Raymond, in Mississippi, from 1858 to 1861," I have the honor to inform you that the records in this office show that route No. 9704, on which Samuel Milliken was contractor, extended from Paducah, Ky., to Iuka, Miss., and not from Port Gibson to Raymond, Miss., and that he was paid in full for service on said route to March 31, 1861. I, therefore, inclose herewith a statement of Mr. Milliken's account for service from April 1 to June 6, 1861, as audited and reported to Congress for appropriation in 1883, showing a balance standing to his credit of $901.92.

Very respectfully,

JNO. I. RANKIN,
Acting Auditor.

Hon. JOHN L. BRETZ,
House of Representatives.

OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT,
Washington, D. C., January 9, 1892.

STATEMENT OF ACCOUNT.

Samuel Milliken, contractor, in account with the United States.

DR.

Route 9704, Ky.:

To collection second quarter, 1861	$12.89
To balance	901.92
	914.81

Samuel Milliken, contractor, in account with the United States—Continued.

CR.

By transportation from April 1, 1861, to June 6, 1861, at $4,970 per annum.	$914.81
	914.81
By balance	901.92

JNO. I. RANKIN,
Acting Auditor.

Hon. JOHN L. BRETZ,
House of Representatives, Washington, D. C.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 677.

FRANK J. BURROWS.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOUD, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 3545.]

The Committee on Claims, to whom was referred the bill (H. R. 3545) for the relief of Frank J. Burrows, have had the same under consideration, and report:

A similar bill having been reported in the first session of the Forty-ninth Congress, and the report thereon, which was agreed to, so fully setting forth the facts, this committee adopts the same and makes it a part of this report and recommends that the bill do pass.

[House Report No. 3326, Forty-ninth Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 3545) for the relief of Frank J. Burrows, having had the same under consideration, respectfully report:

That Frank J. Burrows was postmaster at the city of Williamsport P. O., Pa., from 1882 to ——; that on the 30th day of August, 1884, the said post-office was robbed of 50,000 1-cent postage-stamps, and 150,000 2-cent stamps, aggregating in value $3,500, and also of $522 in money.

The said robbery was committed about a quarter to twelve o'clock (noon), when the postmaster, clerks, carriers, and employés of the post-office were at dinner, with the exception of the assistant postmaster, the mailing clerk, and the delivery and stamp clerk. The mailing clerk was busy at his desk. The delivery and stamp clerk was at the general delivery window and the assistant postmaster, Mr. Shay, was occupied in the money-order office in the rear part of the office. The stamps and money stolen were in an iron safe belonging to the Department, and furnished for that purpose by the Department. The stamps were in the original packages in which they had been sent to the post-office.

While so engaged as aforesaid a boy came in and told the assistant postmaster that a gentleman in a buggy in front of the door wished to speak to him. Mr. Shay, the assistant postmaster, at once left his work and went to the door. The man in the buggy said he was sorry to have brought him out, but he was lame and could not get out of the buggy. He then said that he wanted to ask him how he would have to proceed to get seeds from the Department, etc. Mr. Shay replied that he was not able to give him the information, but supposed he could get them through the member of Congress from his district. Mr. Shay then returned to his office, not having been gone, as he thinks, more than three or four minutes. That afternoon it was discovered that the stamps mentioned had been taken from the safe and packages similar in size and appearance substituted for them; also that the money mentioned had been stolen. It is supposed that while the man in the buggy engaged the assistant postmaster in conversation, a confederate, or confederates, entered by a side door from the alley or through a window and committed the robbery. Diligent effort was made by the postmaster and the inspectors and officials of the Post-Office Department to discover and apprehend the thieves, but without success.

A. G. Sharp, chief inspector, Post-Office Department, in a letter to Hon. William T. Price, dated January 13, 1885, in answer to one for information as to the robbery, says:

"A thorough examination was made by an inspector to ascertain if there was any evidence of collusion between the thieves and the employés of the Williamsport office, or any of them, but none could be found. * * * A rigid and searching investigation was made of the accounts of the office, and everything was found to be in good shape, except the losses before stated. The assistant postmaster has the absolute confidence of the postmaster, and, in fact, the confidence of every one with whom he has come in business contact."

J. M. Speese, the inspector of the Post-Office Department who investigated the said robbery within a few days after the same was committed, states in a letter written by him to a member of this committee: "This robbery was planned by ingenious and bold thieves from New York, and due vigilance could not have prevented its execution." He also states, "I have always found the Williamsport post-office intelligently and carefully managed, and the interests of the Department and the public carefully conducted."

From all the evidence your committee conclude that no blame can attach to said postmaster for said loss, and believing that he should have credit on his account with the Government for said loss as provided in the bill, recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 678.

MARY E. TRICKEY.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PEARSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4728.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4728) granting a renewal of pension to Mary E. Trickey, submit the following report:

Hartwell M. Trickey served as a private in Company I, One hundred and sixth New York Infantry, from July 22, 1862, until June 22, 1865. He was pensioned at $4 per month for gunshot wound of left forearm, and died June 11, 1889.

Mary E. Trickey applied for pension as his widow, and proved to the satisfaction of the Pension Bureau that she was married to the soldier July 2, 1872, and pension was allowed her under act of June 27, 1890, at $8 per month, plus $2 for each of four children from July 2, 1890. Payment of pension was suspended August 15, 1891, on information tending to show that she was not the legal widow of the soldier, and a special examination was had to determine the facts, which are as follows, as is fully shown by evidence now on file in the Pension Bureau:

The soldier, while home on furlough, was married November 12, 1863, at Ogdensburg, N. Y., to one Jane Ritchey, and remained with her one or two weeks at that time. Again, after his discharge, he lived with her as his wife for about one and a half years, when he went to Pennsylvania and she did not accompany him, and never afterward did they live together. The reasons for this separation do not appear. This separation seems to have been about 1867. In 1868 the present claimant, Mary E. (Montgomery), met the soldier at Pottsville, Pa., and on July 2, 1872, they were married at Wilkesbarre, Pa., and lived together continuously as man and wife from that time until his death, and they had five children. It appears, however, that the soldier was never divorced from Jane, his first wife, and hence his so-called marriage to Mary E. was not legal. Some two or three years after the separation above referred to Jane commenced to live with one William Rogers, and they had lived and cohabited as man and wife, openly and publicly, since that time, and have a family of four children, one of whom is 20 years of age, and she is commonly known as Jane Rogers. All this is shown by her own admissions and by other evidence.

On November 29, 1890, Jane filed a claim for the accrued pension due the soldier at the date of his death, and although this had already been paid to Mary E., it was determined in the light of all the facts that it *must be paid to* Jane, as the former payment to Mary E. was illegal;

this was accordingly done and the name of Mary E. was permanently dropped from the rolls. The amount of accrued pension which was thus twice paid seems to have been not more than $13, and possibly not more than $1, if the soldier himself lived to draw the pension for the quarter ending June 4, 1889.

Although it has been determined that Jane was legally entitled to the accrued pension, it does not follow that she is entitled to a continuous pension as widow; it is evident that she has lived as wife with Rogers both before and since the soldier's death, and even if a common-law marriage does not arise on the death of the former husband, her relations with Rogers are clearly such as to defeat a claim by reason of the act of August 7, 1882, as to open and notorious adulterous cohabitation.

Inasmuch as the object of this bill is to pension the beneficiary as an act of justice rather than of strict legal right, and inasmuch as a considerable sum of money has already been paid her illegally though perhaps through no conscious fault of her own, pension, if allowed, should date from the approval of the act.

Your committee therefore return the bill and recommend that the bill do pass, after being amended as follows: In line 3 strike out the words "war of the United States," and insert in lieu thereof the words "the Interior." In line 4, after the word "restore," insert the words "to the pension roll the name of;" after the name "Trickey," in said line 4, insert the words "as legal;" strike out all of line 6 after the word "children," and all of lines 7 and 8, and insert in lieu thereof the words "subject to the limitations and provisions of the act approved June 27, 1890, from the passage of this act."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 679.

STARK FRAZIER.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2397.]

The Committee on Pensions, to whom was referred the bill (H. R. 2397) granting a pension to Stark Frazier, having had the same under consideration, respectfully submit the following report:

The War Department records show that Stark Frazier was enrolled March 10, 1836, at Fort Twiggs, Ga., as a private in Capt. McCrary's company, Howard Battalion, Georgia mounted militia, to serve three months and mustered out of service with the company at Columbus, Ga., June 10, 1836.

In his petition the claimant swears he is between 80 and 90 years old, very feeble, and without means of support, and his statements are fully corroborated, under oath, by Green Robinson, a citizen of Brooks County, Ga.

Your committee find there are many precedents for the passage of this bill which seems exceptionally meritorious, and the same is returned with a favorable recommendation.

Amend by striking out the word "eight" in line 9 and inserting in lieu thereof the word "twenty."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 680.

EDWARD THOMAS.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5365.]

The Committee on Pensions, to whom was referred the bill (H. R. 5365) granting a pension to Edward Thomas, have considered the same and report as follows:

The records show that Edward Thomas "entered service" September 18, 1840, as a private in Capt. James A. Surat's Company, Georgia Mounted Militia, and was mustered out with the company November 18, 1840, and that he was again enrolled November 19, 1840, in the same company and was mustered out with the company, a private, June 1, 1841.

D. C. McEachin, notary public, Telfair County, Ga., William McLean, clerk superior court of said county and State, and two other acquaintances of the claimant certify under seal that the claimant is an honest, upright man; that he is almost 90 years old and unable to perform work of any kind, but supports himself and family almost entirely by begging.

The passage of the bill is recommended.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 681.

ANDREW KRAMER.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2164.]

The Committee on Pensions, to whom was referred the bill (H. R. 2164) increasing the pension of Andrew Kramer, have had the same under consideration, and respectfully report as follows:

The claimant was a private in Company E, First Regiment Pennsylvania Volunteers, and served from December 14, 1846, to April 28, 1847, in the war with Mexico, and he is now drawing the pension of $8 per month provided by law for such service.

In his petition for an increase of his pension the claimant swears that he owns land valued at $2,800 and personal property worth about $800; that there is a mortgage of $1,200 on his farm, and he has other indebtedness amounting to about $150. He further states that his income is what he can make from rent off his farm, which amounts to about $160 per year.

Allen R. Devore and Frank T. Campbell, near neighbors and acquaintances of the claimant, testify that his physical condition is such that for the past two years he has been able to get about but little, and that he has been confined to his house for the past twelve months.

Dr. H. C. Porter, of Batavia, Iowa, testifies that the claimant is totally blind, and otherwise so disabled as to confine him to the house, and that he has been unable for a year to go out of doors.

In view of the claimant's terrible affliction, which results in total inability to supplement his small income by manual labor, your committee are of the opinion that a measure of relief should be granted, and the passage of the bill is therefore recommended, with an amendment fixing the rate of pension at $20 per month.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 682.

WILLIAM WOLFE.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, of Missouri, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4098.]

The Committee on War Claims, to whom was referred the bill (H. R. 4098) for the relief of William Wolfe, submit the following report:

The facts out of which this bill for relief arises will be found stated in Senate Report No. 303, from the Committee on Claims of the present session of Congress, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[Senate Report No. 303, Fifty-second Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 31) for the relief of William Wolfe, of Shelbina, Shelby County, Mo., having had the same under consideration, respectfully report as follows:

The bill provides "that the Secretary of War be, and hereby is, authorized and directed to cause to be investigated by the Quartermaster-General of the United States Army the circumstances, character, and extent of the claim of William Wolfe, of Shelbina, Shelby County, Missouri, for the loss of the schooner *Anna Sophia*, belonging to him, and for freight, while on a voyage from New Orleans, Louisiana, to Indianola, Texas; the said schooner alleged to have been lost, together with her cargo of public stores, while in the military service of the United States, off the bar at said Indianola, in the month of August, in the year eighteen hundred and sixty-five; and the Secretary of War is hereby authorized and directed to find, award, and certify to the Secretary of the Treasury what amount of money, if any, is equitably due to the said William Wolfe from the United States as the reasonable value of the said schooner *Anna Sophia* at the time of her loss, and her freight; and the Secretary of the Treasury is hereby authorized and directed to pay to the said William Wolfe, out of any money in the Treasury not otherwise appropriated, the amount, if any, so found and awarded to be due him from the United States, not to exceed the sum of nine thousand two hundred and sixty-two dollars and twenty-nine cents; and the acceptance by the said Wolfe of any sum awarded under this act shall be in full satisfaction of all claims of every character and nature arising from the employment and loss of the said schooner *Anna Sophia*."

During the summer of 1865, and up to the time of her loss, claimant was the owner of the schooner *Anna Sophia*, of the value of about $8,000. The schooner was loaded with lumber by the United States at New Orleans, and sailed for the port of Indianola, Tex., arriving off the bar and coming to anchor in accordance with a rule of the United States quartermaster in charge, until a tugboat should come and tow her in the harbor. While thus waiting, a storm arose and, on account of its violence, the vessel was wrecked and totally destroyed.

At the time of the voyage and wreck the schooner was officered and crewed by the United States, and entirely under the control of its agents and officers, the

claimant insists by impressment, while the Third Auditor and Comptroller of the Treasury have decided under a contract of charter, freely entered into, whereby all marine risks were assumed by Wolfe, and that the loss of the vessel came under such risk. Adopting this view, the Auditor declined to allow anything to claimant, either for his vessel or for services, because the cargo was not delivered.

About ten to fifteen days before the schooner sailed on her ill-fated voyage William Wolfe entered into a charter contract with the United States, signed by him and ——— ——— for the United States. This was a lengthy instrument, mostly in print, wherein it was provided, among other things, in the printed matter: "The war risk to be borne by the United States and the marine risk to be borne by the owners." The Third Auditor of the Treasury, finding the contract was voluntarily entered into, could not be varied by parol proof, and that after the contract was thus entered into Wolfe's protest against its enforcement would not render such enforcement of it against his will an act of impressment on the part of the Government, and that if it would there was not proof of such impressment.

After a somewhat careful examination of the facts, the committee have reached the conclusion the schooner was impressed into service by the military authorities, and while thus employed by the Government was lost by stress of weather, and that the claimant should be allowed the value of the vessel and a reasonable compensation for the carriage of the cargo.

It will be observed this charter was executed at New Orleans August 6, 1865, when that port was under military control. Proof is abundant from military officers that at that time impressment was the common course. If owners of vessels hesitated for any cause to enter into charter parties, the power of impressment was promptly exercised.

No question can be made of the loyalty of William Wolfe. He was a sailor, and had for two or three years been in the service of the Army as a scout or guide, and does not seem to have been discharged from this service till about the time or a little after signing this contract. His attitude was that of one accustomed to obey rather than standing on the footing of a contractor with officers of the Army. His claim is, he wanted to run the schooner himself, but he was given to understand he might as well enter into the contract, as his boat would be taken in any event.

Evidently, to an extent, he was aware of the provision respecting marine risks, for he testifies that he was given the assurance of the officer that the Government would take the vessel, and if any loss or accident occured would make it good to him.

The United States placed officers and crew on the schooner, in its own employment, and proceeded to take on a cargo of lumber.

Within three or four days from the date of the contract, and, perhaps, a week or more before the schooner sailed, Wolfe protested against its being taken on the voyage, and on the 9th day of August, 1865, before a notary public, made the following written protest:

UNITED STATES OF AMERICA,
Parish of Orleans, city of New Orleans:

Know all men that William Wolfe, owner of the schooner *Anna Sophia*, has appeared before me, the undersigned authority, and has duly protested, and does hereby protest, against the seizure of his schooner, the *Anna Sophia*, by the United States; also, that he protested against the sum proposed to be paid him for the use of said schooner under said seizure; also, that he protested against signing the charter party exacted of him, in which it is stated thus: "The marine risk to be borne by the owners;" he thus protesting because he desires to make personal use of said schooner; because the rate of pay proposed by the United States is not high enough for such services; because no insurance company will insure said schooner while in the hands of the United States. Now, therefore, he does now so protest, and I, the said notary, do so protest.

In witness whereof see hereto his hand and seal.

WM. WOLFE.

Witness:
J. V. BOGERT,
Agent and Attorney.

Done before me at New Orleans, La., this 9th day of August, A. D. 1865.
This is a true copy.

JOHN F. AWELL,
Notary Public.

Notary public certificate with Quartermaster-General.

Lieut. Col. John G. Chandler, deputy quartermaster-general, U. S. Army, in charge of Army transportation, in answer to interrogations duly propounded when this matter was being inquired into, after stating his personal knowledge, says:

"I can not recall the fact of Wolfe making any proposal to hire his vessel, or that

he made any offer to let her for any consideration to the Government. Wolfe signed the charter party after he found the Government intended to take the vessel anyway and had already ordered her employment. His attitude was objection and protest, and signed as he was compelled to feeling himself powerless to do otherwise. * * * I am of the opinion, and have doubtless expressed it, that I considered the use of the vessel as compulsory, so far as the owner was concerned. * * * The employment of Wolfe's vessel, in my opinion, was a real necessity for the public service, was made against his wish, and indeed compulsory. This has been heretofore stated by me in general terms in the papers filed with his claim. As a matter of right and equity I know of no good reason why Wolfe should not be paid, etc."

The following letter tends to confirm the view of claimant:

OFFICE DEPOT QUARTERMASTER,
Indianola, Tex., February 13, 1866.

COLONEL: I have the honor to acknowledge receipt of your letter of the 6th instant, requiring me to investigate personally the claim of William Wolfe, arising out of the loss of the schooner *Anna Sophia*. Also stating that the papers connected with his claim had been forwarded to Capt. Thos. Palmer, Chief Q. M. C. D. T., for a full report, and that the same had not been returned.

In reply I have to inform you that my inquiries have elicited the following facts:

The papers in question (four inclosures) were received from Capt. Palmer by Capt. J. B. Kimes, acting assistant quartermaster at Indianola, Tex., on the 20th of December, 1865, who referred them to Lieut. J. B. Topping, the depot quartermaster at Indianola at the time the schooner was wrecked. Lieut. Topping indorsed on the papers a statement of the facts of the wreck, together with his opinion that William Wolfe was entitled to compensation for the loss of the schooner, as the wreck was unavoidable, no pilot being able to go outside the bar, in consequence of the high wind blowing and the heavy sea running at the time. The papers and the indorsement of Lieut. Topping were returned to Capt. Kimes, who returned them by mail to Capt. Palmer, San Antonio, Tex., on the 23d of December, 1865. Capt. Palmer states that he did not receive them. A copy of the papers, with Lieut. Topping's indorsement, was also sent to New Orleans to Col. Chandler. No copy has been retained of the indorsement, the substance of which is given above.

I am, colonel, very respectfully, your obedient servant,

E. J. SMITH,
Brevet Major and Assistant Quartermaster.

Col. S. H. MANNING,
Chief Quartermaster, Department of Texas, Galveston, Tex.

The facts as above stated are true to my own personal knowledge, I being at the time depot quartermaster at Indianola.

J. B. TOPPING.

In addition to Wolfe's positive testimony, circumstances disclosed in the papers on file in the Department are to the same effect.

The following official communication tends to show the view taken of the claim by the military authorities familiar with the facts:

OFFICE CHIEF QUARTERMASTER,
MILITARY DIVISION OF THE GULF,
New Orleans, La., May 15, 1866.

GENERAL: I have the honor to transmit herewith, by hands of claimant, for your favorable consideration, a claim for the schooner *Anna Sophia*, wrecked on Indianola Bar, and which proved a total loss. The claimant, Mr. Wolfe, is a very deserving man, and has renderd good service to the Army during the late war as a guide and scout in this and other departments.

All the original papers in this case were lost in the mail in Texas, and this claim is supported by such evidence as he can now procure. None of the officers or crew on board the schooner at the time of her loss can now be reached by him, and the depot quartermaster at Indianola, who was cognizant of the facts connected with the wreck, is now out of service.

I am, general, very respectfully, your obedient servant,

C. G. SAWTELLE,
Colonel and Chief Quartermaster Military Division of the Gulf.

Maj. Gen. M. C. MEIGS,
Quartermaster-General, U. S. Army, Washington, D. C.

The committee, reaching the conclusion that claimant's vessel was impressed into the military service of the United States to transport a cargo of lumber from New Orleans to Indianola, and that she was lost in stress of weather while lying outside the bar awaiting a towboat to take her inside the harbor, recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 683.

EDWIN A. MERRITT.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WEVER, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 4057.]

The Committee on Claims, to whom was referred the bill (H. R. 4057) to provide for the adjustment of certain accounts of Edwin A. Merritt, late consul-general at London, have considered the same, and submit the following report:

A bill of a similar nature passed the Senate in the Forty-ninth Congress, first session, and the facts are set forth in the Senate Report No. 706, first session, Forty-ninth Congress, a copy of which is hereto appended. We adopt said report as our own, and recommend its passage.

[Senate Report, Forty-ninth Congress, first session.]

That in 1883 Mr. Merritt informed the State Department that the building then occupied in London was to be torn down, and he would be obliged to move his office elsewhere, and asked authority to engage quarters at a cost not exceeding $2,400, an increase of $700. He was instructed that the appropriation was too small to admit of this increase, but prior to the receipt of this reply of the Department he was obliged to make up his mind, and he accepted the terms of certain parties at $2,400 per year; that prior to this correspondence he had asked authority of the Secretary of the Treasury to destroy the great mass of accumulated papers, and was informed that such an action would constitute a penal offense.

That the State Department, on learning the circumstances of the transaction, informed Mr. Merritt that, although the amount agreed upon was in excess of the 20 per cent on his salary allowed by statute for rent of office, yet they would make allowance for storage rooms (separate from the consular offices) and care, made necessary by reason of accumulated archives. This amounted during the period from July 1, 1883, to May 17, 1885, to $1,723, which was allowed Mr. Merritt by the State Department in the settlement of his accounts, but was disallowed by the Comptroller of the Treasury.

Your committee, in view of the circumstances attending this case, make a favorable report, and recommend the passage of the bill.

The letter from the Secretary of the Treasury is appended.

DEPARTMENT OF STATE,
Washington, February 17, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 9th instant, inclosing a copy of Senate bill 1278, to provide for the adjustment of certain accounts of Edwin A. Merritt, late consul-general at London, for storage and care of the archives of that consulate-general, and requesting a statement of the facts in the case.

In compliance with your request, I have the honor to state that the records of this Department show the following facts:

In his dispatch No. 169, of March 24, 1883, Mr. Merritt called attention to the necessity of moving his office, as the building then occupied was to be torn down, and, in view of the increased rents, he requested authority to engage quarters at a cost not exceeding $2,400, or an increase of $700 per annum, to be charged to the storage account. He was told in reply that the appropriation was too small to admit of such an increase.

In his dispatch No. 184, of May 29, 1883, Mr. Merritt states that previous to the receipt of this instruction he was obliged to make up his mind as to the location of new offices, and had deemed it advisable to accept the terms offered by the London and Provincial Fire Insurance Company, of $2,400 per annum.

To this the Department replied, under date the 28th of June, 1883, as follows:

"The amount agreed on is in excess of the 20 per cent on your salary allowed by statute for rent of your office; but as you have verbally explained that owing to the vast amount of accumulated archives, invoices, and other documents belonging to the office which require storage and care, it seems to be advisable and proper to make allowance for storage rooms, which are understood to be separate from the consular offices, to which the 20 per cent clause of the statute applies."

It may be remarked here that previous to the correspondence referred to the views of the Secretary of the Treasury were requested as to the expediency of destroying the great mass of accumulated documents of ancient date and of no special value, consisting largely of invoices of goods long since shipped, and that officer replied that under the law such a course would constitute a penal offense.

Under the instruction of the Department last referred to, Mr. Merritt rendered accounts from July 1, 1883, to May 17, 1885, being seven quarters one month and seventeen days, at $229.23 per quarter, amounting to $1,723, which was approved by this Department, but disallowed by the Comptroller.

This constitutes the entire history of the transaction.

I have the honor to be, sir, your obedient servant,

T. F. BAYARD.

Hon. JUSTIN S. MORRILL,
Chairman of the Committee on Finance, United States Senate.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 684.

THOMAS L. YOUNG.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 6135.]

The Committee on War Claims, to whom was referred the bill (H. R. 6135) entitled "A bill for the relief of the legal representatives of Thomas L. Young," report that his military history is as follows:

As enlisted man in regular Army, private, musician, corporal, sergeant, and first sergeant of Company A, Third United States Artillery, from March 25, 1848, to January 28, 1858, nine years ten months and four days—one month and twenty-six days short of ten years; and in volunteers, U. S. Army, as captain of Benton Cadets, Missouri Volunteers, from September 6 to December 10, 1861, three months and five days; as major, lieutenant-colonel, and colonel One hundred and eighteenth Ohio Infantry, from September 17, 1862, to September 14, 1864, one year eleven months and twenty-eight days; making a total of two years three months and three days, commissioned service.

That the following law was in force during the whole of said two years and three months and three days:

> That every commissioned officer of the line or staff, exclusive of general officers, shall be entitled to receive one additional ration per diem for every five years he may have served or shall serve in the Army of the United States. (5 U. S. Statutes at Large, p. 258, section 15.)

That the said Thomas L. Young was paid for his services while a commissioned officer as aforesaid in the U. S. Army merely what other officers of like grade were paid, and that he was paid or allowed nothing whatever on account of his said prior length of service in the U. S. Army of nine years ten months and four days.

That for this reson the legal representatives of this officer allege he was short paid for his services in the suppression of the late rebellion, and request the passage of this bill, the sole object of which is to remove any statutory limitation bar that exists or may exist in the premises, and allow their demand to be heard and determined in the Court of Claims as though it were less than six years old.

That notwithstanding the above clear and explicit law cited from said section 15, the accounting officers of the Treasury are now declining to accede to the said rule of computation of the increased pay due to a commissioned officer for length of service (which the said representatives contend for).

That the amount of the wages thus put in controversy is about $478. *And your committee*, having fully considered the matter, can see no

reason why this controversy should not be tried and fully determined in the Court of Claims.

Your committee would further observe that this bill does not ask Congress to determine the justness of this claim. It only asks for what is frequently granted by Congress to the capitalist and property claimant in similar relief bills, namely, the privilege to go before a fit and competent tribunal and prove the justness of the claim, if, indeed, it exists.

The committee recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 685.

P. B. SINNOTT.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PAGE, of Rhode Island, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 726.]

The Committee on Claims, to whom was referred House bill No. 1437, for the relief of P. B. Sinnott, late Indian agent at Grande Ronde Agency, in the State of Oregon, having carefully considered the same, respectfully recommend the adoption of Senate bill No. 726, which accompanies this report, relating to the same matter, and that House bill No. 1437 be laid on the table.

The facts in the case are set forth in a report made by the Committee on Claims of the Senate, Fiftieth Congress, first session, which is hereby adopted and made a part of this report.

Senate Report No. 365, Fiftieth Congress, first session.

FEBRUARY 23, 1888.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 570.]

The Committee on Claims, to whom was referred the bill (S. 570) for the relief of P. B. Sinnott, late Indian agent at Grande Ronde Agency, State of Oregon, having had the same under consideration, submit the following report:

A bill for the relief of Mr. Sinnott was before this committee at the first session of the Forty-ninth Congress, at which time the following report was made, which this committee adopts as part of this report in so far as it is applicable to the present bill:

The facts of this case are as follows:

The claimant, P. B. Sinnott, was United States Indian agent at Grande Ronde Agency, Oreg., from April 1, 1872, to December 24, 1885. On July 1, 1874, he reported to the Commissioner of Indian Affairs the appointment of C. D. Folger as superintendent of farms and mills at his agency, at a salary of $1,000 per annum. This appointment was never confirmed by the Commissioner.

On July 7, 1874, seven days after reporting the employment of Folger to said position, and, as he states, before he was aware of the benefit of Folger's employment, he wrote the Commissioner not to confirm said appointment. The Commissioner then wrote Sinnott, under date of July 25, 1874, in answer to his "report of employés," and letter of the 7th requesting his disapproval, informing him that Mr. Folger's services were not needed.

In the mean time, as appears from the statement of the agent under oath and other circumstances connected with the case, the situation at the agency had changed. The neighboring Indian tribes had taken up arms against the whites. Four of the most savage and cruel tribes on the coast, to wit, the Rogue Rivers, Caw Creeks, Shastas, and Umpquas, were located on the Grande Ronde Reserve, and much exertion, it would seem, was required on the part of the agent to prevent them from joining the hostiles. The different tribes were then living in towns, and the agent deemed it important to immediately allot them lands in severalty, and by that measure in a certain degree break their tribal relations. The preliminary steps had already been taken, the Government had consented to the measure, and the survey had been made some years before. Owing to the nature of the ground this was a most difficult undertaking. The claim corners were mostly in the timber, and it seemed to the agent, as he states, that Mr. Folger was the only one available conversant with the survey. He then again wrote the Commissioner, asking his consent to employ Folger at the salary heretofore mentioned. To that letter he received no answer.

Mr. Sinnott swears positively that the letters from E. P. Smith, Commissioner of Indian Affairs, and H. R. Clum, Acting Commissioner, under dates of September 30, 1874, and March 9, 1875, respectively, alleged to have been mailed to him, were never received; that the first knowledge he had of their existence was the day set for the hearing of the case of the United States against him, hereinafter referred to.

He continued Folger in his employ for about two years. During all that time he quarterly reported his employment, and the Department, as stated by him, never objected, and by its silence he was led to believe appreciated the situation and was satisfied with his employment. The papers in the case also show that during this time Sinnott sent semi-annual estimates for funds for the payment of C. D. Folger as

superintendent of farms and mills at Grande Ronde Agency, and the Commissioner, instead of refusing then to acknowledge the employment, regularly transmitted the funds asked for. The Acting Commissioner's letter transmitting these funds for third and fourth quarters was as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., October 26, 1876.

SIR: I have this day caused a requisition to issue for the sum of $3,000, to be placed to your credit with the First National Bank of Portland, Oregon, from the appropriations and for the objects designated in the tabular statements herewith—for the proper care and disposition of which sum you will be held to account under your bond—one-half of the appropriation for the Molel Manual Labor School, and pay for yourself and interpreter for the third and fourth quarters. Also, pay for the *superintendent of farms and mills*, for sawyer and miller for the months of July and August, 1876, and for general incidental expenses of the agency and for your traveling expenses are remitted.

* * * * * * *

Very respectfully,

N. A. GALPIN,
Acting Commissioner.

P. B. SINNOTT, Esq.,
U. S. Indian Agent, Grande Ronde Agency, Oregon.

Whereupon Mr. Sinnott paid Mr. Folger at the rate aforesaid, took his receipt therefor in due form, and quarterly reported such payments, as will be seen by the following copy of voucher No. 2, first quarter 1875:

The United States to C. D. Folger, Dr.

December 31, 1874. For six months' services as superintendent of farms and mills at Grande Ronde Indian Agency, Oregon, from July 1, 1874, to December 31, 1874, inclusive, at $1,000 per annum..... $500

Received at Grande Ronde, Oregon, January 12, 1875, of P. B. Sinnott, United States Indian agent in Oregon, $500, in full for the above account.

C. D. FOLGER.

I certify on honor that the above account is correct and just, that I have actually, this 12th day of January, paid the amount therefor.

P. B. SINNOTT,
United States Indian Agent.

The above is one of a series of payments and vouchers on account of such service to which payments the Indian Department made no objection. The knowledge of Folger's employment was brought before the Indian Department each quarter during his employment at the agency, and as no objection was made the agent states he believed his appointment was approved, and he continued to retain him in good faith, and as he supposed, as stated by him, with Department sanction. He states further had the Commissioner notified him of his objections at the first or any subsequent quarter, he would have discharged him regardless of his necessity, and thus payments to which exception was taken would have been avoided.

The records show that the last two months of Mr. Folger's employment were allowed. (See copy of letter of Acting Commissioner N. A. Galpin, dated October 26, 1876, before referred to.) The agent asserts, under oath, he had no intimation of disapproval of prior payments made to Folger until some years after his (Folger's) discharge. The last payment made by Sinnott, as agent, to Folger, as superintendent of farms and mills, was made December 23, 1876. The amount was $155.55 for services as such superintendent of farms and mills at said agency from July 1 to August 25, 1876, at $1,000 per annum, $155.55.

This payment was allowed by the Department and paid. The sum total of the amounts paid by Sinnott, as such agent, to C. D. Folger, for and on account of such services, and for which his vouchers were suspended by the Department, was $1,565.14.

Subsequently, in the fall of 1885, suit was brought against Sinnott and his bondsmen on his official bond as such agent in the United States district court for the district of Oregon. A statement of the character of that suit and the amounts in controversy will be seen from the certificate of Hon. James F. Watson, late attorney of the United States for the district of Oregon, who, on behalf of the United States, prosecuted the action against Sinnott and his sureties, as follows:

"*As attorney of the United States for the district of Oregon, I prosecuted the case*

of the United States against P. B. Sinnott to recover balances alleged to be due on his official bonds. The principal items of difference between Mr. Sinnott and the Government arose upon his claim to be allowed moneys paid for salary for C. D. Folger, superintendent of farms and mills. Mr. Sinnott claimed, and I think in good faith, that the services of Mr. Folger were necessary upon the reservation, but that he would have been discharged had he known that it was the wish of the Department that he should be discharged, but that having written and requested a revocation of the order disapproving his first appointment and having received no answer to that letter, he believed it had been revoked, or at least his continued employment sanctioned; and Mr. Sinnott testified, and I think truly, that he did not receive the last two letters from the Department persisting in the disapproval of the appointment of Folger, and suggested that probably Folger, who was his clerk, may have taken and suppressed those letters. I think this theory is quite probable from all the circumstances in the case.

"The court in deciding the case refusing to allow Mr. Sinnott in his accounts the moneys paid Folger, acted upon the theory that the first letter disapproving of Folger's appointment was enough, and that thereafter Sinnott, no matter what he may have written to the Department, to which he received no answer, had no right to think he was authorized to continue to employ Folger. I think this theory is strictly correct and that the court, in trying the strict legal rights of the parties, could not well have adopted any other, but I think that equitably, Sinnott having acted under a mistake as to his rights and duties in the premises, and the Government having had the benefit of the employment and services of Folger, this is a proper case for relief, not through the courts but through legislation.

"Mr. Sinnott, I am satisfied, has been a very honest officer and very faithful in the discharge of his duties, and in this case he has been guilty only of a mistake as to his rights and duties in the premises.

"Very respectfully,

"JAMES F. WATSON."

As bearing upon the integrity and faithfulness of Mr. Sinnott, Hon. R. H. Lamson, formerly a lieutenant in the United States Navy, now clerk of the United States courts for Oregon, submits the following certificate:

[Office of the clerk of the United States courts for the district of Oregon.]

PORTLAND, OREGON, *March* 15, 1886.

I hereby certify that I have known Mr. P. B. Sinnott, late United States Indian agent for the Grande Ronde Reservation, during the last fifteen years; that I resided for several years in the vicinity of the reservation while Mr. Sinnott was Indian agent; and I know of my own personal knowledge that Mr. Sinnott was considered by the people living in the vicinity of the reservation and having knowledge of the character of his administration to be an efficient, honest, and faithful agent, who discharged all his duties to the best of his knowledge and ability, and to the general satisfaction of all concerned.

R. H. LAMSON,
Clerk United States Courts, Oregon.

The following affidavits of Hon. W. K. Kuykendall, Hon. G. C. Litchfield, H. C. Rowell, and A. D. Babcock will show the necessity for the employment of some such person as Mr. Folger in the capacity in which he was employed:

STATE OF OREGON, *County of Polk, ss:*

I, W. H. Kuykendall, being first duly sworn, say I am a resident and property holder of Polk County, Oregon, and have been for the past thirty-two years; that my residence is situate 2½ or 3 miles distant from the Grande Ronde Indian Agency, and that I am a farmer and cattleman, and as a result of said avocations I have been thrown in daily contact with the Indians of said Grande Ronde Agency, buying and trading cattle with them, and became thoroughly acquainted with them, their dispositions, requirements, and necessities; that it is and always has been necessary to employ a competent man to assist the agent in performing the duties devolving upon him in the capacity of agent of said reservation, and C. D. Folger was employed as such competent person to render the aforesaid assistance in the capacity of superintendent of farms and mills; that I believe that the employment of the said C. D. Folger was a necessity for the welfare of the Indians on this the aforesaid Grande Ronde Reservation.

W. H. KUYKENDALL.

Subscribed and sworn to before me this 27th day of February, 1886.
[SEAL.] J. T. SIMPSON,
Notary Public

STATE OF OREGON, *County of Polk, ss:*

I, G. C. Litchfield, being first duly sworn, say I am a resident of Grande Ronde, Polk County, Oregon; that I am engaged in a general merchandise business in said place; that my place of business is situated 2½ miles distant from Grande Ronde Indian Agency; that I have been engaged in said business in the aforesaid place for more than twenty years; that the Indians traded at my store, and I was and am personally acquainted with them, their habits, dispositions, and necessities; that it is and always has been necessary to employ a competent man to assist the agent in performing the duties devolving upon him in the capacity of agent of said reservation, and that C. D. Folger was employed as such competent person to render the aforesaid assistance in the capacity of superintendent of farms and mills; that I believe that the employment of the said C. D. Folger was a necessity for the welfare of the Indians on the aforesaid reservation.

G. C. LITCHFIELD.

Subscribed and s orn to before me this 27th day of February, 1886.
[SEAL.] J. T. SIMPSON,
Notary Public.

STATE OF OREGON, *County of Polk, ss:*

I, A. D. Babcock, being first duly sworn, say I am a resident and property-holder of Polk County, Oregon, and have been for the past thirty-three years; that my residence is situated 2½ miles from the Grande Ronde Indian Agency; that I am a farmer and stock-raiser, and as a result of being so located I became thoroughly acquainted with the Indians, their dispositions, requirements, and necessities; that it is and always has been necessary to employ a competent man to assist the agent of the aforesaid agency in discharging the duties devolving upon him as said agent; that C. D. Folger was employed as such competent person to render the aforesaid assistance in the capacity of superintendent of farms and mills; that there is now and has been a person to perform said duties, but under a different name, and I believe that the employment of the said C. D. Folger was a necessity for the welfare of the Indians on this the aforesaid Grande Ronde Indian Reservation.

A. D. BABCOCK.

Subscribed and sworn to before me this 27th day of February, 1886.
[SEAL.] J. T. SIMPSON,
Notary Public.

STATE OF OREGON, *County of Polk,*

I, H. C. Rowell, being first duly sworn, say I am a resident and property-holder of Polk County, Oregon, and have been for the past ten years; that my residence is situate 3 miles distant from the Grande Ronde Indian Agency, and that I am a farmer and lumberman, and as a result of being so located I became thoroughly acquainted with the Indians, their dispositions, requirements, and necessities; that it is and always has been necessary to employ a competent man to assist the agent in performing the duties devolving upon him in the capacity of agent of said reservation, and C. D. Folger was employed as such competent person to render the aforesaid assistance in the capacity of superintendent of farms and mills; that I believe that the employment of the said Folger was a necessity for the welfare of the Indians on the aforesaid reservation.

H. C. ROWELL.

Subscribed and sworn to before me this 4th day of March, 1886.
[SEAL.] D. W. SEARS,
County Clerk.
By D. T. SEARS, *Deputy.*

As a result of said suit a judgment was obtained in said circuit court of the United States for the district of Oregon on January 15, 1886, in favor of the United States of America, plaintiff, *v.* Claimant Patrick B. Sinnott, and Luzerne Besser and E. Cahalin, sureties on his official bond, for the said sum of $1,565.14, being the amount of money paid by said Sinnott, as such Indian agent, to said C. D. Folger, and which amount was disallowed in the settlement of his accounts in the Departments and also by the court on the trial of said case.

Wherefore, in view of all the circumstances of this case, your committee are of the opinion that in justice and equity neither Mr. Sinnott nor his sureties should be compelled to pay this judgment or any part of it, save and except for costs and disbursements of the action.

Wherefore your committee report back Senate bill 2000, and recommend its passage *with an amendment* inserting in the blank the following words: "Fifteen hundred *and sixty-five dollars* and fourteen cents."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 686.

WILLIAM R. WHEATON AND CHARLES H. CHAMBERLAIN.

MARCH 14, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOUD, from the Committee on Claims, submitted the following

REPORT.

[To accompany S. 1216.]

The Committee on Claims, to whom was referred the bill (S. 1216) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, submit the following report:

Upon a careful examination of the report made to the Senate at this session by Senator Dolph, of Oregon (S. Rep. 38), the facts justify the passage of this act; and being satisfied with said Senate report, your committee adopt it as their own and recommend that the bill do pass.

Your committee further recommend that H. R. 1634 lie upon the table.

[Senate Report No. 38, Fifty-second Congress, first session.]

The Committee on Public Lands, to whom was referred the bill (S. 1216) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, submit the following report:

A bill similar to its provisions was, on January 6, 1890, reported favorably by this committee, passed the Senate on February 14, 1890, and was, on February 26, 1891, reported favorably from the House Committee on Claims, but failed to be reached on the Calendar of the House.

The committee now adopt the House Report No. 4017, made on said similar bill, annexed hereto and made a part hereof, and report back said bill (S. 1216) without amendment, and recommend that the bill do pass.

House Report No. 4017, Fifty-first Congress, second session.

Mr. BURTON, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 268.]

The Committee on Claims, to whom was referred the bill (S. 268) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, submit the following report:

Between July 1, 1877, and February 8, 1879, William R. Wheaton was register and Charles H. Chamberlain was receiver of the United States land office at San Francisco, Cal. During this period these two officers jointly received from private parties, for reducing to writing testimony by them taken in private land cases of said parties, the sum of $5,330.76, which sum, by an order of the General Land Office, of February 8, 1879, these two officers, without any diminution whatsoever, deposited to the credit of the United States in the subtreasury in San Francisco.

From July 1, 1877, to February 8, 1879, San Francisco was a consolidated land office, at which the United States did not make any appropriation for compensation of clerks, but two clerks were employed in said office by said register and receiver during the whole of said period, and the compensation of these clerks was paid by said register and receiver.

So that during said period these two officers received the sum of $5,330.77, out of which they paid their said clerks the sum of $3,800; but these two officers were compelled under said order to deposit to the credit of the United States the whole of said $5,330.77.

This bill, therefore, is to refund these two officers said $3,800, so paid by them to said clerks in aiding them to perform the public duties of said office.

This bill passed the Senate on February 14, 1890, having been reported to Senate on January 6, 1890, in Report No. 38, copy of which is appended as an exhibit hereto and made a part hereof.

Your committee, therefore, recommend the passage of this bill.

A BILL FOR THE RELIEF OF WILLIAM R. WHEATON AND CHARLES H. CHAMBERLAIN, OF CALIFORNIA.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to pay to William R. Wheaton, ex-register, and to Charles H. Chamberlain, ex-receiver of the land office at San Francisco, California, jointly, out of any money in the Treasury not otherwise appropriated, the sum of three thousand eight hundred dollars, being a portion of the amount deposited in the Treasury of the United States by them as fees for testimony which was taken by clerks whose compensation was paid from the private funds of said ex-register and said ex-receiver.

Senate Report No. 38, Fifty-first Congress, first session.

JANUARY 6, 1890.—Ordered to be printed.

Mr. DOLPH, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 268.]

The Committee on Public Lands, to whom was referred the bill (S. 268) for the relief of William R. Wheaton and Charles H. Chamberlain, submit the following report:

A similar bill passed both Houses of Congress at the first session of the present Congress, and was presented to the President for his approval October 10, 1888, but having neither been approved nor returned to the House in which it originated when Congress adjourned, October 20, 1888, failed to become a law. The facts are set forth in the accompanying statement.

The committee recommend that the bill do pass.

1310 CONNECTICUT AVE., *Washington, D. C., December* 5, 1888.

To the honorable Committee on Public Lands, United States Senate:

As attorney and counsel for Hon. William R. Wheaton and Charles H. Chamberlain, I desire to submit for your consideration a statement in support of Senate bill No. 3646, second session Fiftieth Congress, as follows, to wit:

This bill is in all respects similar to the bill for the relief of these same parties which was favorably reported upon by the Senate Committee on Public Lands and by the House Committee on Claims by a unanimous vote of each committee during first session of the Fiftieth Congress (see reports herewith, made part hereof, and marked Exhibits 1 and 2).

These reports were based upon official data and sworn statements, submitted to said committees as evidence when this measure was first under consideration by them, respectively, and before any action of any kind there on was had by either of said two committees. (See copies of said statements hereto attached, made part hereof, and marked Exhibits 3, 4, 5, 6, and 7.)

Senate bill No. 664, for this same object, passed the Senate and House after full explanation, and without a single dissenting vote against it in either the Senate or the House, said bill having passed the Senate on the 19th day of March, 1888, and passed the House on the 5th day of October, 1888. (Congressional Record, first session, Fiftieth Congress, pp. 2327 and 10198.)

This bill (S. 664) duly enrolled, signed by the President of the Senate and Speaker of the House, was duly presented to the President on October 10, 1888, Congress having adjourned October 20, 1888, during which interval the President neither signed said bill nor returned it to the Congress with his objections. I am of opinion that the President had said bill for a period of ten legal days, yet it being a question whether said bill was before the President for the ten days named in the Constitution in these words: "If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress shall by their adjournment prevent

its return, in which case it shall not be a law;" it has been thought prudent to re-introduce this bill a second time and submit same for the consideration and action of your honorable committee and of Congress at this session.

The object of this bill (S. 3646) is to re-imburse ex-Register Wheaton and ex-Receiver Chamberlain, of the United States land office of San Francisco, Cal., the sum of $3,800 to be paid to them jointly—that is, $1,900 to each—out of the sum of $5,330.76 received by them jointly from private parties in California for reducing to writing testimony actually taken by them in contested and other pre-emption and homestead land cases of said private parties, and paid out by said ex-Register and said ex-Receiver to two clerks employed by them during a period of nineteen months, to wit, from July 1, 1877, to February 1, 1879, at $100 per month each, and during which nineteen months the United States did not incur any expenses of any kind for any clerical public services of any nature whatsoever at said land office.

From the date of the admission of California in the Union to July 9, 1877, all registers and receivers therein, and also those in every other public land State and Territory, upon a construction of the law that then and theretofore obtained, were allowed to retain all sums of money collected by them from similar sources and pay them out to the parties who reduced testimony to writing in all similar land-contested or other cases, instead of being compelled to either deposit the same in the United States Treasury, or to report the same to the General Land Office, and with no law upon the statute book that could enable them to get the money out of the Treasury when it once got in there.

But on February 9, 1877, the then chief clerk of the Land Office, Uri J. Baxter, in the accidental and temporary absence of the commissioner of said office, and signing his name as Acting Commissioner, addressed not to all but only to certain registers and receivers (those at San Francisco among others) a quasi circular letter, requesting them to report monthly to that office, in the manner indicated on the face of a certain paper named therein, the amounts of such sums so by them collected, and to note monthly what fees of this class were received by them; and also to note the fact if none were so collected. (See copy of said quasi circular letter hereto attached, marked Exhibit No. 8.)

This practice, so established in California and theretofore existing for twenty-five years, was followed by said Wheaton and Chamberlain from July 1, 1877, to February 8, 1879, continuously, notwithstanding said Exhibit 8, and because it seems that a serious question of dispute in the Interior Department between said two officials and the said Acting Commissioner of the General Land Office arose, to wit: Whether under the law, as theretofore construed, said two officials should continue to do as they had ever done prior to July 1, 1877, to wit, pay out said fees for the purpose for which they had collected them, to wit, pay same for reducing testimony to writing in said land cases, or whether they should deposit the same in the United States Treasury to the credit of the United States under the new and, as they thought, erroneous interpretation or construction given Sua Sponti to said law by a chief clerk, then signing himself as Acting Commissioner, and with no possible chance to get them out of the Treasury under any law of Congress when once in the Treasury, in order to pay them out or disburse them for the very purposes for which they had been paid by said private parties and collected by said two officials.

This mooted question was not finally concluded or finally decided by the honorable Commissioner of the General Land Office until February 8, 1879, and then decided to the effect that all sums collected from this source for the nineteen months prior to February 8, 1879 (the date of such final decision), to wit, from July 1, 1877, to February 8, 1879, should be by said officers immediately deposited in the United States subtreasury at San Francisco to the credit of the United States. (See Exhibit No. 5.)

This final decision, though made on February 8, 1879, was in one sense *ex post facto*, for instead of being made to apply to the future, it was, on the contrary, made to relate back to July 1, 1877, without making any provision of any kind to re-imburse said two officers for the sum of money by them actually paid out to the two or more clerks employed by them during said period of nineteen months, from July 1, 1877, to February 8, 1879, for reducing testimony to writing at said land office.

The most that the Interior Department did do, and as the sequence flowing directly from this contestation, was to make provision thenceforward for the future at said land office, which was done by authorizing said two officers to employ two clerks at $100 per month each, to be paid thereafter by the United States, and their payment to relate back to February 1, 1879. (See Exhibit No. 7.)

These two officials, therefore, were left without any remedy except to pursue their remedy in equity for a re-imbursement by Congress. This they did before the Forty-eighth, Forty-ninth, and Fiftieth Congresses, when they sought to secure the whole sum by them actually disbursed during said nineteen months, and which disbursement was, in fact, the total sum they had collected, to wit, $5,330.76.

But the Senate Committee on Public Lands, in view of the official action and official statements of the Interior Department, to wit, that two clerks at said office, on February

ary 1, 1879, were needed, and that two had been duly authorized to be employed and to be paid from said date $100 per month each, and in view of the further statement of the General Land Office that from July 1, 1877, to February 8, 1879, there had been an actual necessity for clerks at said land office, and that said two officers were equitably entitled to some relief, but how much that office had not the data to then enable it to determine, did therefore proceed to ascertain, and did actually ascertain, for itself, and said committee did fix such equitable allowance that should be paid by the United States to said two officials to cover said period of nineteen months, to wit, that identical allowance which had been made by the Interior Department itself, to wit, two clerks at $100 per month each, to take effect from and on February 1, 1879.

Therefore the Senate Committee on Public Lands computing the time at nineteen months, to wit, from July 1, 1877, to February 1, 1879, and the clerks needed thereat to be at least two in number, at $100 per month each, did make and did in equity fix the allowance at the sum of $3,000 to be paid these two officials jointly out of the sum of $5,330.76, which said two officials had collected between July 1, 1877, and February 8, 1879, and did declare that the balance of the sum by them so collected, to wit, $1,530.76, should revert to the United States and remain in the United States Treasury.

The committees in Congress, to wit, the Public Lands Committee in the Senate and the Claims Committee in the House, had all these facts before them prior to the dates when they reported and when Congress acted on said bill, and therefore Congress and its committees acted not only advisedly in the matter, but based their said action exclusively and took as their guide solely when determining the measure of allowance that should be made in equity to these two officials in this case, that exact measure of allowance which the Interior Department had itself established and fixed in this very case, and to take effect at said land office on February 1, 1879, and which allowance has continued to this date.

No clerk in said land office at San Francisco was ever paid any sum by the United States for any clerical public service performed therein and thereat at any time whatsoever prior to February 1, 1879. But since said last named date the United States has continued to pay two clerks at the rate of $100 per month each.

To pass this bill is to re-imburse these two officials, therefore, for a part only of the money which they actually paid out.

Not to pass this bill is for the United States to receive as a forced gratuity the benefit of the services of two clerks for nineteen months, paid for at the private expense of these two officials, and not, as they should be, at the public expense of the United States.

Your honorable committee can not but easily discern that to pass this relief bill (S. 3846) will be to do partial equity only to these two officials and do no wrong to the United States.

A copy of the statement submitted to Congress by me in behalf of a similar bill, when the same was under consideration before the first session of the Forty-ninth Congress, is inclosed herewith, made a part hereof, and marked A.

Very respectfully,

JOHN MULLAN,
Attorney and Counsel for Wheaton & Chamberlain.

EXHIBIT NO. 1.

[Senate Report No. 76, Fiftieth Congress, first session.]

The Committee on Public Lands, to whom was referred the bill (S. 664) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, submit the following report:

A similar bill was introduced at the Forty-ninth Congress, referred to the Senate Committee on Public Lands, and reported favorably with an amendment (Report No. 1319). Your committee adopt said report, which is as follows:

"The Committee on Public Lands, to whom was reported the bill (S. 988) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, submit the following report:

"Between July 1, 1877, and February 8, 1879, William R. Wheaton was register, and Charles H. Chamberlain was receiver, of the United States land office at San Francisco, Cal. During this period these two officers jointly received from private parties, for reducing testimony in land cases to writing, the sum of $5,330.76, and which sum, by a decision of the General Land Office, of February 8, 1879, they deposited to the credit of the United States in the subtreasury at San Francisco. During

this period, from July 1, 1877, to February 8, 1879, this office was a consolidated land office, but at which the United States made no appropriation for hire of clerks, but clerks were employed—never less than two—and their compensation during this period was paid by said register and said receiver out of their private funds.

"On February 19, 1879, the Secretary of the Interior authorized the employment of the services of two clerks at $100 per month, to date from February 1, 1879. So that it would appear that from July 1, 1877, to February 1, 1879, a period of nineteen months, these two officers employed at least two clerks and paid them for their services out of their private funds.

"For many years, long prior to July 1, 1877, these particular fees for reducing testimony to writing were never to be accounted for by registers and receivers, as fees constituting a source of revenue, but they were retained by them for payment of clerical assistance to be by them employed, and these moneys were viewed as in the nature of expenses incident to the prosecution of the land claims rather than fees. An allowance, therefore, of two clerks from July 1, 1877, to February 1, 1879, at a compensation of $100 per month each, seeming to your committee a fair and reasonable compensation, the same would seem to be the measure of relief to which these two officers are equitably entitled. They received $5,330.77, and out of this sum your committee recommend that they be refunded the sum of $3,800.

"Your committee, therefore, recommend the passage of the bill, with an amendment accordingly."

Your committee recommend that the bill be amended by striking out the words "five thousand three hundred and thirty" and inserting in lieu thereof the words "three thousand and eight hundred" and that when so amended the bill do pass.

EXHIBIT No. 2.

[House Report No. 305, Fiftieth Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 661) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, report as follows:

A bill similar to the one now under review passed the Senate during the Forty-ninth Congress, and was favorably reported by the House Committee on Claims and placed on the Calendar, but failed to receive consideration by the House. The report of the Senate Committee on Public Lands so clearly sets forth the facts on which this claim is based that your committee adopt the same, and make it a part hereof, and recommend that the bill do pass.

[Senate Report No. 1219, Forty-ninth Congress, first session.]

The Committee on Public Lands, to whom was referred the bill (S. 988) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, submit the following report:

Between July 1, 1877, and February 8, 1879, William R. Wheaton was register, and Charles H. Chamberlain was receiver, of the United States land office at San Francisco, Cal. During this period these two officers jointly received from private parties, *for reducing testimony in land cases to writing*, the sum of $5,330.76, and which sum, by a decision of the General Land Office of February 8, 1879, they deposited to the credit of the United States in the sub-treasury at San Francisco. During this period, from July 1, 1877, to February 8, 1879, this office was a consolidated land office, but at which the United States made no appropriation for hire of clerks, but clerks were employed—never less than two—and their compensation during this period was paid by said register and said receiver out of their private funds.

On February 19, 1879, the Secretary of the Interior authorized the employment of the services of two clerks at $100 per month, to date from February 1, 1879. So that it would appear that from July 1, 1877, to February 1, 1879, a period of nineteen months, these two officers employed at least two clerks and paid them for their services out of their private funds.

For many years, long prior to July 1, 1877, these particular fees for reducing testimony to writing were never to be accounted for by registers and receivers as fees constituting a source of revenue, but they were retained by them for payment of clerical assistance to be by them employed, and these moneys were viewed as in the nature of expenses incident to the prosecution of the land claims rather than fees. An allowance, therefore, of two clerks from July 1, 1877, to February 1, 1879, at a compensa-

tion of $100 per month each, seeming to your committee a fair and reasonable compensation, the same would seem to be the measure of relief to which these two officers are equitably entitled. They received $5,333.76, and out of this sum your committee recommend that they be refunded the sum of $3,800.

Your committee therefore recommend the passage of the bill, with an amendment accordingly.

[Before the Forty-ninth Congress, first session.]

In the matter of the bill, to wit, Senate No. 988, introduced by Hon. Leland Stanford, and House No. 3227, Forty-ninth Congress, first session, introduced by Hon. Barclay Henley, for the relief of William R. Wheaton and Charles H. Chamberlain.

The bill is as follows, to wit:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury is hereby authorized and directed to pay to William R. Wheaton, register, and to Charles H. Chamberlain, ex-receiver, of the land office at San Francisco, Cal., jointly, out of any money in the Treasury not otherwise appropriated, the sum of $3,800, being a portion of the amount deposited in the Treasury of the United States by them as fees for testimony which was taken by clerks whose compensation was paid from the private funds of said register and said ex-receiver."

STATEMENT OF THE CASE.

On July 1, 1877, and continuously thereafter to February 19, 1879, and for many years immediately preceding such period, the United States land office at San Francisco, Cal., was what the law terms a consolidated land office, and was then—as it now is—one of the largest and one of the most important United States land offices in all of the public-land States or Territories. It would seem that from the 4th of September, 1841, the date of the original pre-emption act, continuously to March 21, 1864, a period of twenty-three years, the several registers and receivers of all the United States land offices, under a custom not controlled by any regulation issued by the General Land Office in regard thereto, had ever retained the fees deposited with them by private citizens contesting the right of entry to any particular tract of land as compensation for the services rendered by them or by any assistants they might employ for reducing to writing such testimony as was taken before them as judges in such contested land cases.

Congress, on March 21, 1864 (13 Stats., p. 35), in the act amendatory of the homestead law and for other purposes, used the words as follows, to wit:

"*And be it further enacted*, That in lieu of the fee allowed by the twelfth section of the pre-emption act of 4th September, 1841, the register and receiver shall be entitled to $1 for their services in acting upon pre-emption claims, and shall be allowed jointly at the rate of 15 cents per hundred words for the testimony which may be reduced by them to writing for claimants in establishing pre-emption or homestead rights, and regulations for giving proper effect to the provisions of this act to be prescribed by the Commissioner of the General Land Office."

The regulations for giving proper effect to this law were issued by the Commissioner of the General Land Office on the 18th of April, 1864, and wherein he instructed said registers and receivers as follows, to wit:

"There is another service, however, contemplated in said fourth section which involves personal labor and perhaps occasional clerical assistance, which is not to be accounted for as fees constituting a source of revenue, and that is the authority the said section gives the register and receiver for receiving 'jointly' at the rate of 15 cents per hundred words for testimony which may be reduced to writing for claimants in establishing pre-emption or homestead rights." (See 2d Lester, page 254.)

Under the aforesaid instructions, from April 18, 1864, continuously to about 9th of July, 1877, a period of over thirteen years, said registers and receivers further continued to retain the fees deposited with them for reducing testimony to writing by parties contesting the right of entry to any particular tract of land. Or, in other words, a practice that had rested on custom only from the 4th of September, 1841, to March 21, 1864, became now confirmed by the regulations of the General Land Office of April 18, 1864, issued in the execution of, and for their validity and legality resting upon, said act of Congress of 21st of March, 1864, as said Land Office then construed and decided the law to be.

On the 8th February, 1879, and without any justification in the premises other than the exercise of his right to take a view of the law different from that which had been theretofore taken by his predecessors, the Commissioner of the General Land Office *seems to have conceived* the idea that the said act of 21st March, 1864, did not

mean that which theretofore it had been held to mean, but preferred to decide, as he did, that these fees received by said register and receiver for reducing testimony to writing should be paid by them into the United States Treasury. But this decision of the General Land Office in the case of said register and receiver at San Francisco was not made final until February 8, 1879, and instead of making said decision on that date relate exclusively to the future, it was made to relate to the *past*, and to cover a period of time extending continuously from July 1, 1877, to February 19, 1879, the date when said final decision of the General Land Office was received by said register and receiver at San Francisco, and thereby and in consequence of the principle of relation adopted in said decision by the Commissioner of the General Land Office (which principle of relation, properly termed a fiction of law, should never in any case be invoked to the detriment of any person whomsoever), said Receiver Chamberlain was on February 8, 1879, ordered peremptorily to turn into the United States Treasury all the fees that had been received by himself and said register for reducing testimony to writing in contested land cases, and covering the period of time from July 1, 1877, to February 19, 1879.

These two officers, to wit, Messrs. Wheaton as register and Chamberlain as receiver, rather than have any difficulty with the Commissioner of the General Land Office, immediately raised this sum and paid the same forthwith into the United States subtreasury at San Francisco, Cal., and of which sum said Receiver Chamberlain paid his one-half and said Register Wheaton his other half, and as the said register told me last autumn, when I saw him and conversed with him on the subject in San Francisco, that so peremptorily did this order come to him that he, like the said receiver, having already expended and paid out his one-half share of said fee, and for work that had already been done and performed between July 1, 1877, and February 19, 1879, had to go into the open market and borrow that amount in order to turn it into the United States Treasury, and had to borrow the same at the rate of 1 per cent. per month, and that he still owed a part of this loan which he had thus been compelled unexpectedly to make in order only to keep faith with the United States upon the summary demand of its land authorities.

This matter was immediately thereafter brought to the notice of the honorable Secretary of the Interior, and the grave injustice that was being done these gentlemen having been presented to and considered by him, he caused the following instructions to issue, to wit:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 19, 1879.

REGISTER and RECEIVER,
San Francisco, Cal.:

GENTLEMEN: By direction of the honorable Secretary of the Interior you are hereby authorized to employ the services of two clerks in your office at a compensation of $100 per month each, from February 1 to June 30, 1879.

The receiver, as disbursing agent, will defray the expenses hereby authorized, referring on his certified vouchers to this letter as A, by its date, as his authority therefor.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

Now, if on the 19th of February, 1879, in the judgment of the honorable Secretary of the Interior, it was necessary to have the services of at least two clerks in order to aid the said register and receiver in the proper performance of their public duties in the United States land office at San Francisco, Cal., and to be paid for by the United States out of the public treasury, it is self-evident that on the day before, and long prior thereto, it was equally necessary for them to have the services of at least two clerks (the services of whom have all been paid for by said register and receiver out of the fees which had been deposited with them by private parties for reducing to writing testimony taken in contested cases in which said private parties only were interested). As a matter of fact these fees did not, and could not, belong to the people of the United States. They were no part of the public receipts or of the public revenues of moneys belonging to or pertaining to the public treasury; but, on the contrary, these fees were the private funds of private parties, by them deposited with said register and said receiver for one purpose only, and that not of a public but of a private character exclusively, to wit, not to go into the United States Treasury, but to be kept by said register and said receiver, and to be used and paid out by said register and receiver exclusively for reducing to writing the testimony in the particular contested land cases in which said parties as private contestants were interested, one against the other, and in which the general public had no interest, took no part, and in which they had no concern.

These fees, over which the United States never should have had any control, if once

deposited by said receiver or by said register and receiver in the public treasury, could only thereafter be withdrawn therefrom by some proper provision of law; and as Congress had made no such provision of law by which such deposit of fees, if made, could be withdrawn, the very fact of their being deposited would have prevented these private parties, who had advanced such fees, from securing the reducing to writing the testimony requisite to be taken in their private land contests between each other; and thus justice would have been denied them in the very face of the fact that they had deposited these very fees for the specific purpose of having such testimony reduced to writing, and not otherwise.

Thereafter this general subject was brought to the attention of Congress by the Interior Department, and in the report of the Commissioner of the General Land Office, pages 114 and 115 of his report for the fiscal year ending June 30, 1878, and in the words following, to wit:

"The services for which these moneys are received are over and above the ordinary duties of the register and receiver, the performance thereof involves personal labor and frequently requires clerical assistance to be employed by the officers for the purpose, and the moneys are to be viewed as in the nature of expenses incident to the prosecution of the claims, rather than fees. I regard it as a hardship to compel the district officers to charge up the same against their maximum compensation, and recommend legislation to relieve them therefrom."

Congress, heeding the recommendation so made by the Interior Department in regard to this subject-matter, proceeded with due diligence, and enacted the law of March 3, 1883, and which is as follows, to wit:

AN ACT in relation to certain fees allowed registers and receivers.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the fees allowed registers and receivers for testimony reduced by them to writing for claimants in establishing pre-emption and homestead rights and mineral entries and in contested cases, shall not be considered or taken into account in determining the maximum of compensation of said officers.

"SEC. 2. That registers and receivers shall, upon application, furnish plats or diagrams of townships in their respective districts showing what lands are vacant and what lands are taken, and shall be allowed to receive compensation therefor from the party obtaining said plat or diagram at such rates as may be prescribed by the Commissioner of the General Land Office, and said officers shall, upon application by the proper State or Territorial authorities, furnish, for the purpose of taxation, a list of all lands sold in their respective districts, together with the names of the purchasers, and shall be allowed to receive compensation for the same not to exceed 10 cents per entry; and the sums thus received for the plats and lists shall not be considered or taken into account in determining the maximum of compensation of said officers."

In other words, custom, rules, regulations, and decisions of the General Land Office all give way to a fixed statute, and in which Congress declared its intention in regard to fees so deposited for testimony reduced to writing.

This law of March 3, 1883, while it made provision in regard to the fees for reducing testimony to writing that might be deposited with the several registers and receivers in the future, made no provision for the period between July 1, 1877, and February 19, 1879, so that there was nothing left for Mr. Wheaton and Mr. Chamberlain to do, except that which they have done, to wit, to appear as petitioners before Congress, praying for adequate relief in the premises.

These gentlemen therefore came before the Forty-eighth Congress.

A bill for their relief, to wit, Senate bill No. 325, was introduced by the late Senator, Hon John F. Miller, December 5, 1883, and referred to the Senate Committee on Public Lands. A similar bill in the House, to wit, H. R. No. 82, was introduced by Hon. W. S. Rosecrans, of California, on December 10, 1883, read a first and second time and referred to the Committee on Claims; and, although action thereon was frequently requested by me, it nevertheless there slept the sleep that knew no waking. Senate bill No. 325 was referred to the Interior Department by Senator Plumb, as chairman of the Committee on Public Lands, for report; and a report was duly made thereon, and which showed all the facts as well as the equity of this case, and which report is hereto attached and made a part hereof and marked Exhibit No. 1. But no action was ever had by said Senate committee on this report or on this bill during the Forty-eighth Congress. Wherefore these gentlemen again appear now as petitioners before the Forty-ninth Congress, and renew their prayer for relief in the two bills now pending before the Forty-ninth Congress, and in support of which this statement is made.

In further support of this equitable relief I attach hereto and make a part hereof the affidavits of said register, and of said receiver, and of two of their clerks employed between July 1, 1877, and March 31, 1879, and marked Exhibit No. 2.

This claim is just, and I respectfully submit that it should receive the favorable *and early action of the committee charged with its consideration.*

Wherefore I move that it may be favorably reported and with a recommendation that the bill do pass.

Respectfully,

JOHN MULLAN,
Attorney and Counsel for William R. Wheaton, Register, and Charles H. Chamberlain, ex-Receiver, United States Land Office, San Francisco, Cal.

EXHIBIT No. 1.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 14, 1884.

Hon. P. B. PLUMB,
Chairman Committee on Public Lands, United States Senate:

SIR: I have to acknowledge the receipt of your letter of the 22d ultimo, inclosing Senate bill No. 325, Forty-eighth Congress, first session, for the relief of W. R. Wheaton and Charles H. Chamberlain, of California, and in reply thereto transmit herewith a copy of the report of the Commissioner of the General Land Office thereon, dated March 31, 1884, with accompanying papers.

Very respectfully,

M. S. JOSLYN,
Acting Secretary.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 31, 1884.

Hon. H. M. TELLER,
Secretary of the Interior:

SIR: I have to acknowledge the receipt, by reference from the Department for report, of a letter from the Hon. P. B. Plumb, chairman of the Senate Committee on Public Lands, dated March 22, 1884, inclosing Senate bill No. 325, for the relief of William R. Wheaton and Charles H. Chamberlain, register and receiver of the land office at San Francisco, Cal., and in reply thereto have to state as follows:

The register and receiver at San Francisco collected during the fiscal years 1877, 1878, and fractional year 1879, as fees for reducing testimony to writing, certain sums of money, amounting in the aggregate to $5,330.76, which amount was charged to Mr. Chamberlain as receiver, and directed to be deposited to the credit of the United States. (See exhibit herewith marked A.)

This money was so deposited, and April 17, 1879, this office acknowledged the receipt of a certificate of deposit for $5,181 (see copy of letter herewith marked B), and Mr. Chamberlain was given credit therefor in the adjustment of his accounts for the first quarter of 1879, and in a further adjustment received credit for the additional sum of $149.76.

Prior to July 1, 1877, registers and receivers were allowed to retain all fees received by them for reducing testimony to writing and making transcripts of records, out of which they paid for clerk hire and other office expenses.

After July 1, 1877, registers and receivers were directed to account for them in the same manner as they accounted for other public moneys.

Section 2255, Revised Statutes, provides that the Secretary of the Interior may make reasonable allowance for clerk hire in consolidated offices, but prohibits the payment of any clerk whose employment is not first sanctioned by the Secretary.

As a matter of fact, the business of the San Francisco land office was so large at that time that it was impossible for the officers to transact it without clerical assistance, but no authority was given for the employment of clerks, and whatever said expenses may have been the United States paid no part thereof.

No authority was given for the employment of clerks in the San Francisco land office, although it was a consolidated office, until February 19, 1879. Since that time clerks have been employed there and paid by the United States.

While depriving the registers and receivers of the benefit of those fees from which they paid the salaries of the clerks necessary to the transaction of the public business (and there can be no doubt of the necessity for clerks), the United States made no provision for the payment of their salaries from July 1, 1877, to February 1, 1879.

It would seem, therefore, that the registers and receivers are equitably entitled to some relief in the matter; the amount thereof this office is unable to determine. In view, therefore, of the facts in the case, as set forth above, I have to return Senate bill 325 without recommendation.

The following-described papers are also transmitted:
A. Copy of letter of this office to C. H. Chamberlain, dated February 8, 1879.
B. Copy of letter of this office to same, dated April 17, 1879.

Very respectfully,

N. C. McFARLAND,
Commissioner.

A.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 8, 1879.

C. H. CHAMBERLAIN, Esq.,
Receiver at San Francisco, Cal.:

SIR: From the records of this office it appears that you have been debited in the adjustment of your quarterly accounts current with fees received for reducing testimony to writing as admitted in your quarterly fee statements, but not credited the United States in your monthly or quarterly accounts current, as follows:

Third quarter 1877	$1,081
Fourth quarter 1877	850
First quarter 1878	903
Second quarter 1878	935
Third quarter 1878	648
Fourth quarter 1878	764

Making in the aggregate $5,181. You are hereby instructed to deposit the whole amount to the credit of the Treasurer of the United States and take certificates of deposit in triplicate. The original C. D. you will forward as usual to the Secretary of the Treasury, the duplicate you will send up to this office, that I may know this order has been complied with, and the triplicate you will keep as your own voucher.

This is the final conclusion and decision of the office in this matter, and you will please in future deposit similar fees with the other receipts of your office and credit the United States therewith in your monthly and quarterly accounts current.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

B.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 17, 1879.

C. H. CHAMBERLAIN, Esq.,
Receiver at San Francisco, Cal.:

SIR: Certificate of deposit No. 324, dated March 31, 1879, for $5,181, covering amount received by you as fees for reducing testimony to writing from July 1, 1877, to December 31, 1878, has been received as requested in my letter of 8th February last.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

EXHIBIT NO. 2.

Sworn statements in support of the bill for the relief of William R. Wheaton and Charles H. Chamberlain.

UNITED STATES LAND OFFICE,
San Francisco, Cal.

For the proper dispatch of the business of this office during the last five years the service of at least two clerks have been constantly required; occasionally we have had to employ three clerks at a time. Up to February 19, 1879, there had been no allowance or provision made for the payment of clerical services other than that provided by the fourth section of the act of March 21, 1864, "An act amendatory of the homestead law, and for other purposes," which section is in the following words:

"*And be it further enacted,* That in lieu of the fee allowed by the twelfth section of

the pre-emption act of 4th September, 1841, the register and receiver shall be entitled to one dollar for their services in acting upon pre-emption claims, and shall be allowed jointly, at the rate of fifteen cents per hundred words, for the testimony which may be reduced by them to writing for claimants, in establishing pre-emption or homestead rights and regulations for giving proper effect to the provisions of this act, to be prescribed by the Commissioner of the General Land Office."

The regulations for giving proper effect to the law were issued by the Commissioner April, 1864, wherein he instructs registers and receivers as follows:

"There is another service, however, contemplated in said fourth section which involves personal labor and perhaps occasional clerical assistance, which is not to be accounted for as fees constituting a source of revenue, and that is the authority the said section gives the register and receiver for receiving 'jointly' at the rate of 15 cents per hundred words, for testimony which may be reduced to writing for claimants in establishing pre-emption or homestead rights." (See 2d Lester, page 254.)

Under said instructions the register and receiver, up to February 19, 1879, employed the necessary clerical force, and paid therefor out of the fees authorized to be retained as aforesaid.

In February, 1879, we were ordered to deposit, and did deposit, in the United States Treasury, to the credit of the United States, the amount of such fees received by us subsequent to July 1, 1877, amounting to $5,330.76, notwithstanding we had paid during the said period for the necessary clerical services in reducing testimony to writing, and for which services said fees were received, and no other allowance for clerk-hire having been theretofore made. During this time, in order not to keep witnesses and claimants waiting on expense, much of the work of making up the records was done out of office hours, and the Government received the benefit of this overwork.

The Commissioner of the General Land Office, in his annual report of the fiscal year ending June 30, 1878 (page 115), made the following recommendation:

"The services for which these moneys are received are over and above the ordinary duties of the register and receiver, the performance thereof involves personal labor and frequently requires clerical assistance to be employed by the officers for the purpose, and the moneys are to be viewed as in the nature of expenses incident to the prosecution of the claims rather than fees. I regard it as a hardship to compel the district officers to charge up the same against their maximum compensation, and recommend legislation to relieve them therefrom."

WM. R. WHEATON,
Register.
CHAS. H. CHAMBERLAIN,
Receiver.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

William R. Wheaton, register, and Charles H. Chamberlain, receiver, being severally duly sworn, say, and each for himself says, that the foregoing statement is true.

WM. R. WHEATON.
CHAS. H. CHAMBERLAIN.

Subscribed and sworn to before me this 30th day of March, 1882.
[SEAL.] THEO. REICHERT,
United States Commissioner.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

Duncan McNee, being duly sworn, says that he is and has been for six years last past the chief clerk in said land office; that he has read the foregoing statements, and that the same is true of his own knowledge.

DUNCAN MCNEE.

Subscribed and sworn to before me this 30th day of March, 1882.
[SEAL.] THEO. REICHERT,
United States Commissioner.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

Alfred P. Pike, being duly sworn, says that he has been employed as a clerk in said land office to reduce testimony to writing during the years 1877, 1878, 1879, 1880, and 1881, and is at this time employed therein at a salary of $100 per month; that he has read the foregoing statement of the register and receiver, and that the same is true of his own knowledge; and that during said period he has known of the employment by said register and receiver of others besides himself and Duncan McNee, the chief clerk, to reduce testimony to writing.

ALFRED P. PIKE.

Subscribed and sworn to before me this 30th day of March, 1882.
[SEAL.] THEO. REICHERT,
United States Commissioner.

EXHIBIT No. 3.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 14, 1884.

Hon. P. B. PLUMB,
Chairman Committee on Public Lands, United States Senate:

SIR: I have to acknowledge the receipt of your letter of the 22d ultimo, inclosing Senate bill No. 325, Forty-eighth Congress, first session, for the relief of W. R. Wheaton and Charles H. Chamberlain, of California, and in reply thereto transmit herewith a copy of the report of the Commissioner of the General Land Office thereon, dated March 31, 1884, with accompanying papers.

Very respectfully,

M. S. JOSLYN,
Acting Secretary.

EXHIBIT No. 4.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 31, 1884.

Hon. H. M. TELLER,
Secretary of the Interior:

SIR: I have to acknowledge the receipt, by reference from the Department for report, of a letter from the Hon. P. B. Plumb, chairman of the Senate Committee on Public Lands, dated March 22, 1884, inclosing Senate bill No. 325, for the relief of William R. Wheaton and Charles H. Chamberlain, register and receiver of the land office at San Francisco, Cal., and in reply thereto have to state as follows:

The register and receiver at San Francisco collected during the fiscal years 1877, 1878, and fractional year 1879, as fees for reducing testimony to writing, certain sums of money, amounting in the aggregate to $5,330.76, which amount was charged to Mr. Chamberlain as receiver, and directed to be deposited to the credit of the United States. (See exhibit herewith, marked A.)

This money was so deposited, and April 17, 1879, this office acknowledged the receipt of a certificate of deposit for $5,181 (see copy of letter herewith, marked B), and Mr. Chamberlain was given credit therefor in the adjustment of his accounts for the first quarter of 1879, and in a further adjustment received credit for the additional sum of $149.76.

Prior to July 1, 1877, registers and receivers were allowed to retain all fees received by them for reducing testimony to writing and making transcripts of records, out of which they paid for clerk hire and other office expenses.

After July 1, 1877, registers and receivers were directed to account for them in the same manner as they accounted for other public moneys.

Section 2255, Revised Statutes, provides that the Secretary of the Interior may make reasonable allowance for clerk hire in consolidated offices, but prohibits the payment of any clerk whose employment is not first sanctioned by the Secretary.

As a matter of fact, the business of the San Francisco land office was so large at that time that it was impossible for the officers to transact it without clerical assistance, but no authority was given for the employment of clerks, and whatever said expenses may have been, the United States paid no part thereof.

No authority was given for the employment of clerks in the San Francisco land office, although it was a consolidated office until February 19, 1879. Since that time clerks have been employed there and paid by the United States.

While depriving the registers and receivers of the benefit of those fees from which they paid the salaries of the clerks necessary to the transaction of the public business (and there can be no doubt of the necessity for clerks), the United States made no provision for the payment of their salaries from July 1, 1877, to February 1, 1879.

It would seem, therefore, that the registers and receivers are equitably entitled to some relief in the matter; the amount thereof this office is unable to determine. In view, therefore, of the facts in the case, as set forth above, I have to return Senate bill 325 without recommendation.

The following-described papers are also transmitted:

A. Copy of letter of this office to C. H. Chamberlain, dated February 8, 1879.

B. Copy of letter of this office to same, dated April 17, 1879.

Very respectfully,

N. C. MCFARLAND,
Commissioner.

EXHIBIT No. 5.

A.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 8, 1879.

C. H. CHAMBERLAIN, Esq.,
Receiver at San Francisco, Cal.:

SIR: From the records of this office it appears that you have been debited in the adjustment of your quarterly accounts current with fees received for reducing testimony to writing, as admitted in your quarterly fee statements, but not credited the United States in your monthly or quarterly accounts current, as follows:

Third quarter 1877	$1,081
Fourth quarter 1877	850
First quarter 1878	903
Second quarter 1878	935
Third quarter 1878	648
Fourth quarter 1878	764

Making in the aggregate $5,181. You are hereby instructed to deposit the whole amount to the credit of the Treasurer of the United States, and take certificates of deposit in triplicate. The original certificate of deposit you will forward as usual to the Secretary of the Treasury, the duplicate you will send up to this office, that I may know this order has been complied with, and the triplicate you will keep as your own voucher.

This is the final conclusion and decision of the office in this matter, and you will please in future deposit similar fees with the other receipts of your office and credit the United States therewith in your monthly and quarterly accounts current.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

EXHIBIT No. 6.

B.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 17, 1879.

C. H. CHAMBERLAIN, Esq.,
Receiver at San Francisco, Cal.:

SIR: Certificate of deposit No. 324, dated March 31, 1879, for $5,181, covering amount received by you as fees for reducing testimony to writing from July 1, 1877, to December 31, 1878, has been received as requested in my letter of 8th February last.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

EXHIBIT No. 7.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 19, 1874.

REGISTER and RECEIVER,
San Francisco, Cal.:

GENTLEMEN: By direction of the honorable Secretary of the Interior you are hereby authorized to employ the services of two clerks in your office at a compensation of $100 per month each, from February 1 to June 30, 1879.

The receiver, as disbursing agent, will defray the expenses hereby authorized, referring on his certified vouchers to this letter as A, by its date, as his authority therefor.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

EXHIBIT No. 8.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., July 9, 1877.

REGISTER AND RECEIVER,
Prescott, Ariz.:

GENTLEMEN: I have to request that, commencing with the present month and continuing regularly from month to month thereafter, you will report to this office in the manner indicated upon the face of the accompanying blank, in addition to other fees, etc., the joint fee at the rate of 22½ cents per one hundred words, authorized by subdivisions 10, 11, and 12, section 2238, United States Revised Statutes, for the services of register and receiver in reducing to writing for claimants the testimony adduced in establishing pre-emption and homestead claims.

If no fees of the class alluded to are received during the month, that fact must be noted upon the fee statement.

I am, very respectfully, etc.,

U. J. BAXTER,
Acting Commissioner.

A copy of the foregoing circular letter was also addressed, under date of July 9, 1877, to the registers and receivers at the following land offices, to wit:

Oneida, Idaho.	Los Angeles, Cal.	Walla Walla, Wash.
Helena, Mont.	Susanville, Cal.	Salt Lake City, Utah.
Bozeman, Mont.	Central City, Cal.	Florence, Ariz.
Pioche, Nev.	Fair Play, Colo.	Humboldt, Cal.
Elko, Nev.	Del Norte, Colo.	Sacramento, Cal.
La Grande, Oregon.	Boisé City, Idaho.	Visalia, Cal.
The Dalles, Oregon.	Santa Fé, N. Mex.	Shasta, Cal.
Vancouver, Wash.	La Mesilla, N. Mex.	Independence, Cal.
Colfax, Wash.	Eureka, Cal.	Denver, Colo.
Cheyenne, Wyo.	Carson, Nev.	Pueblo, Colo.
Marysville, Cal.	Roseburgh, Oregon.	Lake City, Colo.
San Francisco, Cal.	Linkville, Oregon.	Lemhi, Idaho.
Stockton, Cal.	Olympia, Wash.	

A.

[Before the Forty-ninth Congress, first session.]

In the matter of the bill, to wit, Senate No. 988, introduced by Hon. Leland Stanford, and House No. 3227, Forty-ninth Congress, first session, introduced by Hon. Barclay Henley, for the relief of William R. Wheaton and Charles H. Chamberlain.

The bill is as follows, to wit:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is hereby authorized and directed to pay to William R. Wheaton, register, and to Charles H. Chamberlain, ex-receiver, of the land office at San Francisco, California, jointly, out of any money in the Treasury not otherwise appropriated, the sum of five thousand three hundred and thirty dollars and seventy-six cents, being the amount deposited in the Treasury of the United States by them as fees for testimony which was taken by clerks whose compensation was paid from the private funds of said register and said ex-receiver.'

STATEMENT OF THE CASE.

On July 1, 1877, and continuously thereafter to February 19, 1879, and for many years immediately preceding such period, the United States land office at San Francisco, Cal., was what the law terms a consolidated land office, and was then—as it now is—one of the largest and one of the most important United States land offices in all of the public land States or Territories. It would seem that from the 4th of September, 1841, the date of the original pre-emption act, continuously to March 21, 1864, a period of twenty-three years, the several registers and receivers of all the United States land offices, under a custom not controlled by any regulation issued by the General Land Office in regard thereto, had ever retained the fees deposited with them by private citizens contesting the right of entry to any particular tract of land as compensation for the services rendered by them or by any assistants they might employ for reducing to writing such testimony as was taken before them as judges in such contested land cases.

Congress, on March 31, 1864 (13 Stats., p. 35), in the act amendatory of the homestead law and for other purposes, used the words as follows, to wit:

"*And be it further enacted,* That in lieu of the fee allowed by the twelfth section

of the pre-emption act of 4th September, 1841, the register and receiver shall be entitled to one dollar for their services in acting upon pre-emption claims, and shall be allowed jointly at the rate of fifteen cents per hundred words for the testimony which may be reduced by them to writing for claimats, in establishing pre-emption or homestead rights, and regulations for giving proper effect to the provisions of this act to be prescribed by the Commissioner of the General Land Office."

The regulations for giving proper effect to this law were issued by the Commissioner of the General Land Office on the 18th of April, 1864, and wherein he instructed said registers and receivers as follows, to wit:

"There is another service, however, contemplated in said fourth section which involves personal labor and perhaps occasional clerical assistance, which is not to be accounted for as fees constituting a source of revenue, and that is the authority the said section gives the register and receiver for receiving 'jointly' at the rate of fifteen cents per hundred words for testimony which may be reduced to writing for claimants in establishing pre-emption or homestead rights." (See 2 Lester, p. 254.)

Under the aforesaid instructions, from April 18, 1864, continuously to about 9th of July, 1877, a period of over thirteen years, said registers and receivers further continued to retain the fees deposited with them for reducing testimony to writing by parties contesting the right of entry to any particular tract of land. Or, in other words, a practice that had rested on custom only from the 4th of September, 1841, to March 21, 1864, became now confirmed by the regulations of the General Land Office of April 18, 1864, issued in the execution of and for their validity and legality resting upon said act of Congress of March 21, 1864, as said Land Office then construed and decided the law to be.

On the 8th of February, 1879, and without any justification in the premises other than the exercise of his right to take a view of the law different from that which had been theretofore taken by his predecessors, the Commissioner of the General Land Office seems to have conceived the idea that the said act of March 21, 1864, did not mean that which theretofore it had been held to mean, but preferred to decide, as he did, that these fees received by said register and receiver for reducing testimony to writing should be paid by them into the United States Treasury. But this decision of the General Land Office in the case of said register and receiver at San Francisco was not made final until February 8, 1879, and instead of making said decision on that date relate exclusively to the future, it was made to relate to the past, and to cover a period of time extending continuously from July 1, 1877, to February 19, 1879, the date when said final decision of the General Land Office was received by said register and receiver at San Francisco, and thereby and in consequence of the principle of relation adopted in said decision by the Commissioner of the General Land Office (which principle of relation, properly termed a fiction of law, should never in any case be invoked to the detriment of any person whomsoever) said Receiver Chamberlain was on February 8, 1879, ordered peremptorily to turn into the United States Treasury all the fees that had been received by himself and said register for reducing testimony to writing in contested land cases, and covering the period of time from July 1, 1877, to February 19, 1879.

These two officers, to wit, Messrs. Wheaton, as register, and Chamberlain, as receiver, rather than have any difficulty with the Commissioner of the General Land Office, immediately raised this sum, and paid the same forthwith into the United States sub-treasury at San Francisco, Cal., and of which sum said Receiver Chamberlain paid his one-half and said Register Wheaton his other half, and as the said register told me last autumn, when I saw him and conversed with him on the subject in San Francisco, that so peremptorily did this order come to him, that he, like the said receiver, having already expended and paid out his one-half share of said fee and for work that had already been done and performed between July 1, 1877, and February 19, 1879, had to go into the open market and borrow that amount in order to turn it into the United States Treasury, and had to borrow the same at the rate of 1 per cent. per month, and that he still owed a part of this loan which he had thus been compelled unexpectedly to make in order only to keep faith with the United States upon the summary demand of its land authorities.

This matter was immediately thereafter brought to the notice of the honorable Secretary of the Interior, and the grave injustice that was being done these gentlemen having been presented to and considered by him, he caused the following instructions to issue, to wit:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 19, 1879.

REGISTER AND RECEIVER,
San Francisco, Cal.:

GENTLEMEN: By direction of the honorable Secretary of the Interior you are hereby authorized to employ the services of two clerks in your office, at a compensation of $100 per month each, from February 1 to June 30, 1879.

The receiver, as disbursing agent, will defray the expenses hereby authorized, referring on his certified vouchers to this letter as "A" by its date as his authority therefor.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

Now, if, on the 19th of February, 1879, in the judgment of the honorable Secretary of the Interior, it was necessary to have the services of at least two clerks in order to aid the said register and receiver in the proper performance of their public duties in the United States land office at San Francisco, Cal., and to be paid for by the United States out of the public treasury, it is self-evident that on the day before, and long prior thereto, it was equally necessary for them to have the services of at least two clerks (the services of whom have all been paid for by said register and receiver out of the fees which had been deposited with them by private parties for reducing to writing testimony taken in contested cases in which said private parties only were interested). As a matter of fact these fees did not and could not belong to the people of the United States. They were no part of the public receipts or of the public revenues or moneys belonging to or pertaining to the public treasury; but, on the contrary, these fees were the private funds of private parties, by them deposited with said register and said receiver for one purpose only, and that not of a public but of a private character exclusively, to wit, not to go into the United States Treasury, but to be kept by said register and said receiver and to be used and paid out by said register and receiver exclusively for reducing to writing the testimony in the particular contested land cases in which said parties as private contestants were interested, one against the other, and in which the general public had no interest, took no part, and in which they had no concern.

These fees, over which the United States never should have had any control, if once deposited by said receiver or by said register and receiver in the public treasury, could only thereafter be withdrawn therefrom by some proper provision of law; and as Congress had made no such provision of law by which such deposit of fees, if made, could be withdrawn, the very fact of their being deposited would have prevented these private parties, who had advanced such fees, from securing the reducing to writing the testimony requisite to be taken in their private land contests between each other; and thus justice would have been denied them in the very face of the fact that they had deposited these very fees for the specific purpose of having such testimony reduced to writing, and not otherwise.

Thereafter this general subject was brought to the attention of Congress by the Interior Department; and in the report of the Commissioner of the General Land Office, pages 114 and 115 of his report for the fiscal year ending June 30, 1878, and in the words following, to wit:

"The services for which these moneys are received are over and above the ordinary duties of the register and receiver, the performance thereof involves personal labor, and frequently requires clerical assistance to be employed by the officers for the purpose, and the moneys are to be viewed as in the nature of expenses incident to the prosecution of the claims, rather than fees. I regard it as a hardship to compel the district officers to charge up the same against their maximum compensation, and recommend legislation to relieve them therefrom."

Congress, heeding the recommendations so made by the Interior Department in regard to this subject-matter, proceeded with due diligence, and enacted the law of March 3, 1883, and which is as follows, to wit:

"AN ACT in relation to certain fees allowed registers and receivers.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the fees allowed registers and receivers for testimony reduced by them to writing for claimants in establishing pre-emption and homestead rights and mineral entries and in contested cases shall not be considered or taken into account in determining the maximum of compensation of said officers.

"SEC. 2. That registers and receivers shall, upon application, furnish plats or diagrams of townships in their respective districts showing what lands are vacant and what lands are taken, and shall be allowed to receive compensation therefor from the party obtaining said plat or diagram at such rates as may be prescribed by the Commissioner of the General Land Office, and said officers shall, upon application by the proper State or Territorial authorities, furnish, for the purpose of taxation, a list of all lands sold in their respective districts, together with the names of the purchasers, and shall be allowed to receive compensation for the same not to exceed 10 cents per entry; and the sums thus received for plats and lists shall not be considered or taken into account in determining the maximum of compensation of said officers."

In other words, custom, rules, regulations, and decisions of the General Land Office all gave way to a fixed statute, and in which Congress declared its intention in regard to fees so deposited for testimony reduced to writing.

This law of March 3, 1883, while it made provision in regard to the fees for reducing testimony to writing that might be deposited with the several registers and receivers in the future, made no provision for the period between July 1, 1877, and February 19, 1879, so that there was nothing left for Mr. Wheaton and Mr. Chamberlain to do except that which they have done, to wit, to appear as petitioners before Congress praying for adequate relief in the premises.

These gentlemen therefore came before the Forty-eighth Congress.

A bill for their relief, to wit, Senate bill No. 325, was introduced by the late Senator Hon. John F. Miller, December 5, 1883, and referred to the Senate Committee on Public Lands. A similar bill in the House, to wit, H. R. No. 82, was introduced by Hon. W. S. Rosecrans, of California, on December 10, 1883, read a first and second time, and referred to the Committee on Claims, and, although action thereon was frequently requested by me, it nevertheless there slept the sleep that knew no waking. Senate bill No. 325 was referred to the Interior Department by Senator Plumb, as chairman of the Committee on Public Lands, for report, and a report was duly made thereon, and which showed all the facts as well as the equity of this case, and which report is hereto attached and made a part hereof and marked Exhibit No. 1. But no action was ever had by said Senate committee on this report or on this bill during the Forty-eighth Congress. Wherefore these gentlemen again appear now as petitioners before the Forty-ninth Congress and renew their prayer for relief in the two bills now pending before the Forty-ninth Congress and in support of which this statement is made.

In further support of this equitable relief I attach hereto and make a part hereof the affidavits of said register and of said receiver, and of two of their clerks employed between July 1, 1877, and March 31, 1879, and marked Exhibit No. 2.

This claim is just, and I respectfully submit that it should receive the favorable and early action of the committee charged with its consideration.

Wherefore I move that it may be favorably reported and with a recommendation that the bill do pass.

Respectfully,

JOHN MULLAN,
Attorney and Counsel for William R. Wheaton, Register, and Charles H. Chamberlain, ex-Receiver, United States Land Office, San Francisco, Cal.

EXHIBIT No. 1.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 14, 1884.

Hon. P. B. PLUMB,
Chairman Committee on Public Lands, United States Senate:

SIR: I have to acknowledge the receipt of your letter of the 22d ultimo, inclosing Senate bill No. 325, Forty-eighth Congress, first session, for the relief of W. R. Wheaton and Charles H. Chamberlain, of California, and in reply thereto transmit herewith a copy of the report of the Commissioner of the General Land Office thereon, dated March 31, 1884, with accompanying papers.

Very respectfully,

M. L. JOSLYN,
Acting Secretary.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 31, 1884.

Hon. H. M. TELLER,
Secretary of the Interior:

SIR: I have to acknowledge the receipt by reference from the Department for report of a letter from the Hon. P. B. Plumb, chairman of the Senate Committee on Public Lands, dated March 22, 1884, inclosing Senate bill No. 325, for the relief of William R. Wheaton and Charles H. Chamberlain, register and receiver of the land office at San Francisco, Cal., and in reply thereto have to state as follows:

The register and receiver at San Francisco collected during the fiscal years 1877, 1888, and fractional year 1879, as fees for reducing testimony to writing, certain sums of money, amounting in the aggregate to $5,330.76, which amount was charged to

Mr. Chamberlain as receiver, and directed to be deposited to the credit of the United States. (See exhibit herewith marked A.)

This money was so deposited, and on April 17, 1879, this office acknowledged the receipt of a certificate of deposit for $5,181, (see copy of letter herewith marked B,) and Mr. Chamberlain was given credit therefor in the adjustment of his accounts for the first quarter of 1879, and in a further adjustment received credit for the additional sum of $149.76.

Prior to July 1, 1877, registers and receivers were allowed to retain all fees received by them for reducing testimony to writing and for making transcripts of records, out of which they paid for clerk hire and other office expenses.

After July 1, 1877, registers and receivers were directed to account for them in the same manner as they accounted for other public moneys.

Section 2255, Revised Statutes provides that the Secretary of the Interior may make reasonable allowance for clerk hire in consolidated offices, but prohibits the payment of any clerk whose employment is not first sanctioned by the Secretary.

As a matter of fact, the business of the San Francisco land office was so large at that time that it was impossible for the officers to transact it without clerical assistance, but no authority was given for the employment of clerks, and whatever said expenses may have been the United States paid no part thereof.

No authority was given for the employment of clerks in the San Francisco land office, although it was a consolidated office, until February 19, 1879. Since that time clerks have been employed there and paid by the United States.

While depriving the registers and receivers of the benefit of these fees from which they paid the salaries of the clerks necessary to the transaction of the public business (and there can be no doubt of the necessity for clerks), the United States made no provision for the payment of their salaries from July 1, 1877, to February 1, 1879.

It would seem, therefore, that the registers and receivers are equitably entitled to some relief in the matter; the amount thereof this office is unable to determine. In view, therefore, of the facts in the case, as set forth above, I have to return Senate bill No. 325 without recommendation.

The following described papers are also transmitted:

A. Copy of letter of this office to C. H. Chamberlain, dated February 8, 1879.

B. Copy of letter of this office to same, dated April 17, 1879.

Very respectfully,

N. C. McFARLAND,
Commissioner.

A.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 8, 1879.

C. H. CHAMBERLAIN, Esq.,
Receiver at San Francisco, Cal.:

SIR: From the records of this office it appears that you have been debited in the adjustment of your quarterly accounts current with fees received for reducing testimony to writing as admitted in your quarterly fee statements, but not credited the United States in your monthly or quarterly account current, as follows:

Third quarter 1877	$1,081
Fourth quarter 1877	850
First quarter 1878	903
Second quarter 1878	935
Third quarter 1878	648
Fourth quarter 1878	764

Making in the aggregate $5,181. You are hereby instructed to deposit the whole amount to the credit of the Treasurer of the United States and take certificates of deposit in triplicate. The original C. D. you will forward as usual to the Secretary of the Treasury, the duplicate you will send up to this office that I may know this order has been complied with, and the triplicate you will keep as your own voucher.

This is the final conclusion and decision of the office in this matter, and you will please in future deposit similar fees with the other receipts of your office and credit the United States therewith in your monthly and quarterly accounts current.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

B.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 17, 1879.

C. H. CHAMBERLAIN, Esq.,
Receiver at San Francisco Cal.:

SIR: Certificate of deposit No. 324, dated March 31, 1879, for five thousand one hundred and eighty-one dollars ($5,181) covering amount received by you as fees for reducing testimony to writing from July 1, 1877, to December 31, 1878, has been received as requested in my letter of 8th February last.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

EXHIBIT No. 2.

Sworn statements in support of the bill for the relief of William R. Wheaton and Charles H. Chamberlain.

UNITED STATES LAND OFFICE,
San Francisco, Cal.

For the proper dispatch of the business of this office during the last five years the services of at least two clerks have been constantly required; occasionally we have had to employ three clerks at a time. Up to February 19, 1879, there had been no allowance or provision made for the payment of clerical services other than that provided by the fourth section of the act of March 21, 1864, "an act amendatory of the homestead law, and for other purposes," which section is in the following words:

"*And be it further enacted*, That in lieu of the fee allowed by the 12th section of the pre-emption act of 4th September, 1841, the register and receiver shall be entitled to one dollar for their services in acting upon pre-emption claims, and shall be allowed jointly, at the rate of fifteen cents per hundred words for the testimony which may be reduced by them to writing for claimants, in establishing pre-emption or homestead rights, and regulations for giving proper effect to the provisions of this act to be prescribed by the Commissioner of the General Land Office."

The regulations for giving proper effect to the law were issued by the Commissioner April, 1864, wherein he instructs registers and receivers as follows:

"There is another service, however, contemplated in said fourth section which involves personal labor and perhaps occasional clerical assistance, which is not to be accounted for as fees constituting a source of revenue, and that is the authority the said section gives the register and receiver for receiving 'jointly' at the rate of 15 cents per hundred words for testimony which may be reduced to writing for claimants in establishing pre-emption or homestead rights." (See 2d Lester, page 254.)

Under said instructions the register and receiver up to February 19, 1879, employed the necessary clerical force, and paid therefor out of the fees authorized to be retained as aforesaid.

In February, 1879, we were ordered to deposit, and did deposit in the Unired States Treasury, to the credit of the United States, the amount of such fees received by us subsequent to July 1, 1877, amounting to $5,330.76, notwithstanding we had paid during the said period for the necessary clerical services in reducing testimony to writing, and for which services said fees were received, and no other allowance for clerk hire having been theretofore made. During this time, in order not to keep witnesses and claimants waiting on expense, much of the work of making up the records was done out of office hours, and the Government received the benefit of this overwork.

The Commissioner of the General Land Office, in his annual report for the fiscal year ending June 30, 1878 (page 115), made the following recommendation:

"The services for which these moneys are received are over and above the ordinary duties of the register and receiver, the performance thereof involves personal labor and frequently requires clerical assistance to be employed by the officers for the purpose, and the moneys are to be viewed as in the nature of expenses incident to the prosecution of the claims, rather than fees. I regard it as a hardship to compel the district officers to charge up the same against their maximum compensation, and recommend legislation to relieve them therefrom."

WM. R. WHEATON,
Register.

CHAS. H. CHAMBERLAIN,
Receiver.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

William R. Wheaton, register, and Charles H. Chamberlain, receiver, being severally duly sworn, say, and each for himself says, that the foregoing statement is true.

WM. R. WHEATON,
CHAS. H. CHAMBERLAIN.

Subscribed and sworn to before me this 30th day of March, 1882.
[SEAL.] THEO. REICHERT,
United States Commissioner.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

Duncan McNee, being duly sworn, says that he is and has been for six years last past the chief clerk in said land office; that he has read the foregoing statements, and that the same is true of his own knowledge.

DUNCAN MCNEE.

Subscribed and sworn to before me this 30th day of March, 1882.
[SEAL.] THEO. REICHERT,
United States Commissioner.

STATE OF CALIFORNIA, *City and County of San Francisco, ss.:*

Alfred P. Pike, being duly sworn, says that he has been employed as a clerk in said land office to reduce testimony to writing during the years 1877, 1878, 1879, 1880, and 1881, and is at this time employed therein at a salary of $100 per month; that he has read the foregoing statement of the register and receiver, and that the same is true of his own knowledge; and that during said period he has known of the employment by said register and receiver of others besides himself and Duncan McNee, the chief clerk, to reduce testimony to writing,

ALFRED P. PIKE.

Subscribed and sworn to before me this 30th day of March, 1882.
[SEAL.] THEO. REICHERT,
United States Commissioner.

S. 3646.
For the relief of William R. Wheaton and Charles H. Chamberlain, of California.
Introduced by Mr. Dolph and referred to Committee on Public Lands, 11.
Reported back (S. Report 2397), 103.
Passed Senate, 407.
Passed House, 543.
Examined and signed, 567, 573.
Vetoed by President, 1003.
Referred to Senate Committee on Public Lands, 1004.
Passed the Senate over the President's veto: Ayes, 35; nays, 8—2488.

The PRESIDENT *pro tempore.* A quorum being present, further proceedings under the call will be dispensed with, if there be no objection.

W. R. WHEATON AND C. H. CHAMBERLAIN—VETO MESSAGE.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was read:

"*To the Senate:*

"I return without approval Senate bill No. 3646, entitled 'An act for the relief of William R. Wheaton and Charles H. Chamberlain, of California.'

"These parties were, respectively, for a number of years prior to 1879, the register and receiver of the land office at San Francisco, in the State of California.

"Prior to July, 1877, they had collected and retained, apparently without question, certain fees allowed by law for reducing to writing the testimony heard by them in establishing the rights of claimants to public lands.

"On the 9th day of July, 1877, these officials were notified by the Acting Commissioner of the General Land Office that monthly thereafter, and dating from July 1, 1877, such fees should be reported with other fees to the General Land Office.

"This notification furnished clear information that whatever may have been the justification for their retention of these fees in the past the parties notified must thereafter account to the Government for the same.

"On the 8th day of February, 1879, the beneficiaries were peremptorily required by the Commissioner of the General Land Office to deposit in the Treasury of the United States the sums which they had received for the services mentioned since July 1, 1877, and which, though reported, had not been paid over. Soon thereafter, and pursuant to this demand, the sum of $5,330.76, being the aggregate of such fees for the nineteen months between July 1, 1877, and February 1, 1879, was paid over to the Government.

"On the 19th day of February, 1879, these officers were authorized to employ two clerks, each upon a salary of $100 per month.

"The purpose of the bill now under consideration is to restore to the beneficiaries from the money paid over to the Government, as above stated, the sum of $3,800. This is proposed upon the theory that clerks were employed by the register and receiver to do the work for which the fees were received, and that these officials having paid them for their services they should be re-imbursed from the fund.

"It will be observed that whatever services were performed by clerks in the way of writing down testimony, and paid for by the beneficiaries, were performed and paid for after July, 1877, and after they had in effect received notice that such employment and payment would not be approved by the Government.

"Upon this statement the claim covered by the bill can hardly be urged on legal grounds, whatever the Government may have allowed prior to such notice.

"I am decidedly of the opinion that the relations, the duties, and the obligations of subordinates in public employment should be clearly defined and strictly limited. They should not be permitted to judge of the propriety or necessity of incurring expenses on behalf of the Government without authority, much less in disregard of orders. And yet there are cases when, in an emergency, money is paid for the benefit of the public service by an official which, though not strictly authorized, ought, in equity, to be re-imbursed.

"If there is any equity existing in favor of the beneficiaries named in the bill herewith returned, it is found in the fact that during the nineteen months from the 1st day of July, 1877, to the 1st day of February, 1879, they paid out certain moneys for which the Government, in the receipt of the fees which they paid over, received the benefit. Manifestly such equity in this case, if it can be claimed at all in view of the facts recited, is measured by the sum actually paid by these officials to the persons, if such there were, who did the work from which the fees arose which were paid over to the Government.

"In other words, if certain clerks were paid by the beneficiaries from their private funds for doing this work, there should be a distinct statement of the sum so paid, and their claim should rest upon indemnity and re-imbursement alone. But no such statement appears, so far as I can see from an examination of papers presented to me by the Interior Department and from the report of the Senate committee who reported this bill, except as it may be gathered from the rather indirect allegations contained in a paper prepared by counsel.

"No vouchers have ever been received at the General Land Office for money paid for clerical services rendered during the period for which re-imbursement is sought. The verified statement of the claimants annexed to the committee's report contains only the allegation that they paid for the necessary clerical services, and the affidavits of the clerks themselves furnish no clew to the amount they received. Such an omission, in my opinion, discredits the claim made, and the allowance of the sum of $100 per month for two clerks during the period of nineteen months covered by this claim, because that was the sum authorized to be paid thereafter for clerks' services, is, it seems to me, adopting a standard entirely inapplicable to the subject.

"In any event these beneficiaries should be required to establish the sum necessary for such indemnification, and the amount appropriated for their relief should be limited to that sum.

"GROVER CLEVELAND.

"EXECUTIVE MANSION, *January* 17, 1889."

The PRESIDENT *pro tempore*. Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. PLATT. May I inquire what bill it is that the President objects to?

The PRESIDENT *pro tempore*. The bill will be read.

The Chief Clerk read the bill, as follows:

"*Be it enacted, etc.*, That the Secretary of the Treasury is hereby authorized and directed to pay to William R. Wheaton, ex-register, and to Charles H. Chamberlain, ex-receiver of the land office at San Francisco, Cal., jointly, out of any money in the Treasury not otherwise appropriated, the sum of $3,800, being a portion of the amount deposited in the Treasury of the United States by them as fees for testimony which was taken by clerks whose compensation was paid from the private funds of said ex-register and said ex-receiver."

Mr. STEWART. I move that the bill and veto message be referred to the Committee on Claims.

The PRESIDENT *pro tempore*. The bill and the message will be referred to the Committee on Claims, if there be no objection.

Mr. BERRY. Did not the bill come from the Committee on Public Lands?

The PRESIDENT *pro tempore*. The Chair will have the files examined to ascertain.

Mr. BERRY. I am of the opinion that it came from that committee.

Mr. DOLPH. By direction of the Committee on Public Lands I report back the bill (S. 3646) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, with the President's veto message, and recommend that the bill be passed notwithstanding the veto.

This bill has twice passed both branches of Congress at the present session. At the first session it failed because it was not signed by the President and was received by him within ten days of the adjournment. At the present session it was vetoed. It was vetoed upon the supposition or fact, whichever the case may be, that the testimony showed that certain clerks had been employed by the claimants, who were register and receiver of a land office in California during a period named, and that when the Government came to act upon the matter and clerks were authorized to be employed $100 a month was allowed by the Government, but that there was no showing that the register and receiver had, during the time for which the compensation was claimed for clerk-hire, paid out that sum.

I have since received an affidavit from one of the clerks who was employed, stating that he did receive during the period mentioned $100 a month, and that another clerk named, who is now out of the country, and whose affidavit can not be obtained, received $100 a month paid by these parties, covering the precise point of objection made by the Executive.

I may say that I report the bill back with this recommendation with the consent, at least, of all the members of the Committee on Public Lands who are in the city. I ask to have the affidavit read and that the vote be then taken upon the passage of the bill.

The PRESIDENT *pro tempore*. The Senator from Oregon asks for the present consideration of the report?

Mr. DOLPH. I do.

The PRESIDENT *pro tempore*. Is there objection? The question is, Shall the bill pass, notwithstanding the objections of the President of the United States? The Secretary will call the roll.

Mr. DOLPH. I ask for the reading of the affidavit to which I referred.

Mr. HALE and others. Let it go.

Mr. DOLPH. Very well; let it go.

The PRESIDENT *pro tempore*. The roll will be called on the question, Shall the bill pass, notwithstanding the objections of the President of the United States?

The Secretary proceeded to call the roll.

Mr. FAULKNER (when his name was called). I am paired with the junior Senator from Pennsylvania [Mr. Quay].

The roll-call was concluded.

Mr. WILSON, of Iowa. I am paired with the Senator from Maryland [Mr. Wilson], and therefore withhold my vote. Otherwise I should vote "yea."

Mr. GEORGE (after having voted in the negative). Is the name of the Senator from New Hampshire [Mr. Blair] recorded?

The PRESIDENT *pro tempore*. It is not recorded.

Mr. GEORGE. I withdraw my vote.

The PRESIDENT *pro tempore*. The Senator from Mississippi withdraws his vote.

Mr. SAWYER (after having voted in the affirmative). Is the name of the Senator from Delaware [Mr. Saulsbury] recorded?

The PRESIDENT *pro tempore*. It is not recorded.

Mr. SAWYER. Then I withdraw my vote.

The PRESIDENT *pro tempore*. The Senator from Wisconsin withdraws his vote.

The result was announced—yeas 35, nays 8; as follows:

YEAS—35.

Allison,	Dolph,	Ingalls,	Ransom,
Butler,	Evarts,	Jones of Nevada,	Sherman,
Call,	Farwell,	Mitchell,	Spooner,
Cameron,	Gibson,	Morgan,	Stanford,
Chandler,	Gorman,	Morrill,	Stewart,
Cullom,	Hale,	Paddock	Stockbridge,
Daniel,	Hampton,	Payne,	Teller,
Davis,	Hiscock,	Platt,	Walthall.
Dawes,	Hoar,	Plumb,	

NAYS—8.

Bate,	Harris,	Pasco,	Reagan,
Coke,	Jones of Arkansas,	Pugh,	Turpie.

ABSENT—33.

Aldrich,	Cockrell,	Hearst,	Sawyer,
Beck,	Colquitt,	Kenna,	Vance,
Berry,	Edmunds,	McPherson,	Vest,
Blackburn,	Eustis,	Manderson,	Voorhees,
Blair,	Faulkner,	Palmer,	Wilson of Iowa,
Blodgett,	Frye,	Quay,	Wilson of Md.
Bowen,	George,	Riddleberger,	
Brown,	Gray,	Sabin,	
Chace,	Hawley,	Saulsbury,	

The PRESIDENT *pro tempore*. Two-thirds of the Senators present having voted therefor the bill is passed, notwithstanding the objections of the Executive.

STATE OF CALIFORNIA,
City and County of San Francisco, ss.

Duncan McNee, being first duly sworn, deposes and says that he is forty years of age and a resident of San Francisco, Cal.; that he was clerk in United States land office, San Francisco, Cal., continuously from June 15, 1868, to September 1, 1886; that he commenced as such clerk under Charles H. Chamberlain, receiver, and served until after the expiration of said Chamberlain's term.

That he served for ten years under William R. Wheaton, register; that during the years 1877, 1878, 1879, 1880, and 1881 said Wheaton was register and said Chamberlain was receiver of said office.

That during said years he (McNee) received and was paid by said Wheaton and Chamberlain, register and receiver as aforesaid, the sum of $100 per month, and he knows that the money so paid him for the period July 1, 1877, to February 1, 1879, was not paid by the United States, but was paid by said Wheaton and Chamberlain personally.

Affiant further swears that said Wheaton and Chamberlain had as clerks during said period (July 1, 1877, to February 1, 1879) other clerks, and especially one Alfred P. Pike, and that said Pike was also paid by said officers the sum of $100 each month from July 1, 1877, to February 1, 1879.

Said Pike is not in this vicinity at present, so that his affidavit can not be obtained.

DUNCAN MCNEE.

Subscribed and sworn to before me on this 11th day of February, A. D. 1880.

LEE D. CRAIG,
Notary Public.

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